

O.A.No.45 of 2020

M.SUNDAR,J.

Sri.T.V.Ramanujam, learned Senior Counsel instructed by counsel on record and assisted by Mr.J.Vamini and Mr.P.H.Arvinth Pandian, learned Senior Counsel instructed by Mr.J.R.Jayant counsel on record for the respondents are before this Court.

2. Though instant application is one under Section 9 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for brevity, both the learned counsel, on instructions from their respective clients, submits that they agree for appointment of a sole Arbitrator to enter upon reference qua arbitral disputes that have arisen with regard to a Joint Development Agreement dated 12.07.2018 between the applicant and the respondent (hereinafter 'said agreement' for clarity).

3. The arbitration agreement being arbitration agreement within the meaning of Section 7 of A and C Act between the parties to the instant application is in the form of a covenant and the covenant is clause 31 of said agreement, which reads as follows:

'31. ARBITRATION

31.1. In the event of any dispute or differences arising in

connection with the Agreement in any other related document and which cannot be settled mutually through negotiations, shall be submitted to arbitration pursuant to the provisions of the Arbitration and Conciliation Act, 1996, as amended hereto.

31.2. The arbitration shall be submitted to one arbitrator who shall be appointed by mutual agreement between the parties.

31.3. The decision of the arbitrator shall be resulted in writing and shall be binding upon the parties hereto. The Parties shall bear their respective costs, charges and expenses of the arbitration. Such arbitration shall be held in Chennai and shall be conducted in English language. '

4. There is no disputation or contestation about the existence of aforementioned arbitration agreement between the parties.

5. Be that as it may, both sides also agree that it will be open to the parties to move suitable applications under Section 17 of A and C Act before the sole Arbitrator. It is made clear that it is also open to the applicant to present a copy of the instant application before the Hon'ble arbitrator with a request to treat the same as one under Section 17. If such a course is adopted, it is open to Hon'ble Arbitrator to deal with the same at his discretion.

6. Hon'ble Mr.Justice N.Paul Vasanthakumar (Retd.), at 'ASIRVADH',
24-A, II Street, Kamaraja Avenue, Adyar, Chennai - 20 (Phone No.044-

24347907) is appointed as Hon'ble Arbitrator to constitute the Arbitral Tribunal. Hon'ble Arbitrator is requested to enter upon reference, adjudicate upon the arbitral disputes between the parties and pass an award in accordance with A and C Act.

Instant Original Application disposed of on above terms.

31.01.2020

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Note: Registry is directed to communicate this order to Hon'ble Mr.Justice N.Paul Vasanthakumar (Retd.), at 'ASIRVADH', 24-A, II Street, Kamaraja Avenue, Adyar, Chennai - 20 (Phone No.044-24347907) forthwith.

Note to Registry:

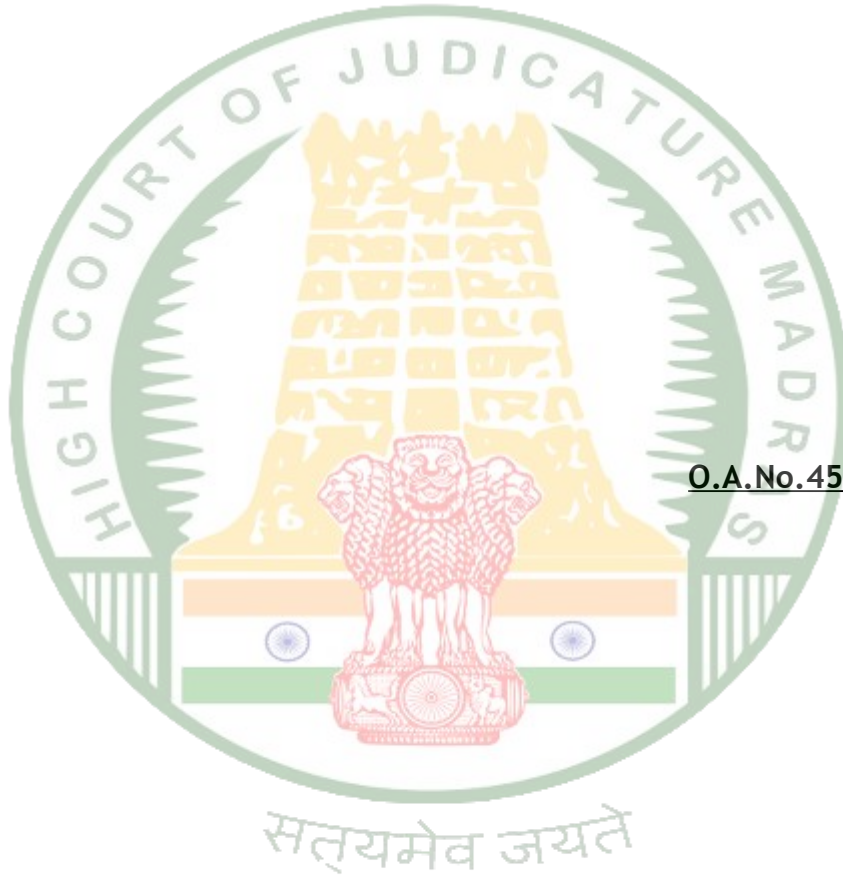
Issue order copy on 6.2.2020.

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