



WEB COPY



A.No.4583 of 2022
in C.S.No.46 of 2018 (Comm Suits)

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M.SUNDAR, J

This order will now dispose of captioned application.

2. In this order, parties shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

3. Mr.Surya Narayanan, learned counsel representing the counsel on record for sole plaintiff, Mr.Anirudh A.Sriram, learned counsel representing the counsel on record for Defendants 1 to 3 and Ms.V.Padmapriya, learned counsel on record for fourth defendant are before this Commercial Division.

4. Case file placed before this Commercial Division brings to light that in the captioned suit plaint has been presented on 30.11.2017 and date of institution of suit is 18.01.2018. Commercial Division was constituted in this Court from December of 2017. Therefore, there was transfer of captioned suit from the regular Court to this Commercial Division and this was vide proceedings dated 10.02.2022 made by Hon'ble predecessor Judge. As the suit was instituted prior to constitution of Commercial Division in this Court, it was



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Code of Civil Procedure, 1908' ['CPC' for the sake of brevity] without resorting to CPC as amended by 'The Commercial Courts Act, 2015 (4 of 2016)' [hereinafter 'CCA' for the sake of brevity and convenience]. Therefore, Appendix - I captioned 'STATEMENT OF TRUTH' which in turn is traceable to Order VI Rule 15-A and Order XI Rule 3 of amended CPC was not filed.

5. The defendants really do not have a say in the captioned application as it is a question of filing procedure and therefore, it is a matter between the Registry and the Plaintiff. In and by this judicial order, this is set at naught by ordering the captioned application as prayed for owing to the narrative thus far.

6. Be that as it may, this Commercial Division deems it appropriate to make it clear that when CCA kicked in on 23.10.2015 there was no Appendix-I. Appendix-I was added in and by 03.05.2018 amendment to CCA with retrospective effect from 23.10.2015. This is vide Serial No.12 to Schedule to CCA which in turn is traceable to Section 16 of CCA. As already alluded to supra, Appendix-I is traceable to Order VI Rule 15-A of amended CPC (besides Order XI Rule 3). In amended Rule 15-A sub-rule (1) talks about Appendix to this schedule and sub-rule (5) appendix to 'this Schedule'. It is not an Appendix to the Schedule but it is part of the Schedule (Serial No.12) is the common say of learned counsel on both sides. This Commercial Division deems it



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appropriate to accept this submission and record it as this may aid a suitable course correction in the days to come.

Captioned application ordered as prayed for. There shall be no order as to costs.

27.10.2022

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