



Arb.Appln.No.237 of 2021

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M.SUNDAR, J

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 09.03.2022.

2. Mr.M.Arunachalam, learned counsel for applicant and Mr.Sai Suraj, learned counsel for the lone respondent are before this Court.

3. Learned counsel for applicant on instructions submits that 'Arbitral Tribunal' ['AT'] has since been constituted and that the sittings of AT are also underway.

4. In the light of the aforesaid development, this Court is of the considered view that the captioned application can be relegated/referred to AT.

5. It is open to the applicant to file an application with similar/same prayer before AT or present the captioned application before AT with a request to treat the same as one under Section 17 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1966)', which shall hereinafter be referred to as 'A and C Act.

6. If the applicant chooses the above trajectory, AT shall consider the captioned application on its own merits and in accordance with law uninfluenced by this order. Though obvious it is made clear that this Court has not expressed any view or opinion on the merits of the matter in this order.



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7. Learned counsel for applicant requests for refund of Court fee paid in captioned application. This takes us to Section 69-A of 'Tamil Nadu Court Fees and Suits Valuation Act, 1955 [Act No. XIV of 1955]' (hereinafter shall be referred to as 'Tamil Nadu Court Fees Act' for the sake of convenience and clarity), which reads as follows:

'69-A. Refund on settlement of disputes under Section 89 of Code of Civil Procedure:

Where the Court refers the parties to the suit to any of the modes of settlement of dispute referred to in Section 89 of the Code of Civil Procedure, 1908 (Central Act V of 1908), the fee paid shall be refunded upon such reference. Such refund need not await for settlement of the dispute.'

8. A careful perusal of Section 69-A of Tamil Nadu Court Fees Act makes it clear that when parties are referred to any of the modes of settlement adumbrated under Section 89 of 'The Code of Civil Procedure, 1908' [hereinafter 'CPC' for the sake of brevity], the fee paid by the litigant shall be refunded and such a refund need not await settlement of dispute.

9. This takes us to Section 89 of CPC which reads as follows:

'89.Settlement of disputes outside the Court.- (1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of



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settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for -

(a) arbitration;

(b) conciliation;

(c) judicial settlement including settlement through Lok Adalat; or

(d) mediation.

(2) Where a dispute has been referred-

(a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act;

(b) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the provisions of sub-section (1) of section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat;

(c) for judicial settlement, the Court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authority Act, 1987 (39 of 1987) shall apply as if the dispute were referred to a Lok Adalat under the provisions of that Act;



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(d) for mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed.'

10. A careful perusal of Section 89 of CPC makes it clear that arbitration is one of the modes of settlement adumbrated in Section 89 of CPC.

11. As captioned application has now been referred to arbitration the request of the applicant for refund of Court fee is acceded to.

12. Court fee paid by the applicant in the captioned application shall be refunded by Registry by way of an instrument drawn in favour of the applicant-Company subject to standard deductions if any and such refund shall be by observing the obtaining procedure in this regard.

Captioned application is disposed of in aforesaid manner with aforesaid directives/observations. There shall be no order as to costs.

23.03.2022

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