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O.A. No.558 of 2021

WEB CODE: **M.SUNDAR,J.**

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 22.02.2022, which reads as follows:

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 07.02.2022.

2. Mr.P.B.Balaji, learned counsel appearing on behalf of the counsel on record for applicant and Mr.R.S.Raveendhren, learned counsel for respondent are before me.

3. The possibility of appointing an Arbitrator and relegating the captioned application before the Arbitrator under Section 17 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and clarity] is being explored.

List on Monday i.e., 28.02.2022.

2. Today, the same set of learned counsel are before this Court.



3. Mr.P.B.Balaji, learned counsel appearing on behalf of the counsel on record for the applicant and Mr.R.S.Raveendhren, learned counsel for lone respondent on instructions from the respective litigants i.e., applicant and the respondent, adverting to the aforementioned earlier proceedings, submit that they are agreeable for appointment of Mr.V.Inbavijayan, Advocate, No.6-2, Plot No.108, Majestic Colony Main Road, Valasarawakkam, Chennai - 600 087 (Mobile No.9840114287) as the sole arbitrator to enter upon reference and adjudicate the arbitrable disputes that have arisen between the applicant and the respondent.

4. Though the captioned application is one under Section 9 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and clarity], the Arbitral Tribunal is a creature of the parties i.e., it is a creature of contract. Therefore, in the light of the aforementioned common submission made in unison by the parties i.e., contracting parties, request for appointment of aforementioned individual as sole arbitrator is acceded to.



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5. Now that the Arbitral Tribunal has been constituted sub-section 3 of Section 9 of 'A and C Act' operates. Therefore, it is open to the applicant to make similar/same prayer before the Arbitral Tribunal either under Section 17 of the 'A and C Act' or under any other appropriate provisions.

6. In the light of the narrative thus far, all the rights and contentions of both sides are left open. Though obvious, it is made clear that this Court has not expressed any view or opinion on the merits of the matter and if Section 17 route is taken by the applicant in the aforementioned manner, the Arbitral Tribunal shall deal with the application on its own merits and in accordance with law.

7. Captioned application is disposed of in the aforesaid manner. There shall be no order as to costs.

28.02.2022

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M.SUNDAR.J

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O.A. No.558 of 2021

28.02.2022