



A.No.213 of 2023

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C.SARAVANAN, J.

This application has been filed to grant leave to sue the applicant/plaintiff to institute the suit against the respondent/defendant before this Hon'ble Court.

2. Leave was granted earlier to the applicant/plaintiff in A.No.3426 of 2022 in C.S.DR.No.87888 of 2022 (C.S.SR.No.22495 of 2022) in respect of the very same cause of action. After the leave was granted, the suit was also numbered as C.S.(Comm.Div.)No.202 of 2022.

3. After the leave was granted and the suit was numbered and taken on file of this Court, the sole defendant had filed applications objecting the maintainability of the aforesaid suit in the light of Section 12-A of the Commercial Courts Act, 2015 as amended with effect from 03.07.2018. This Court has taken a *suo motu* view that in the light of the decision of the Hon'ble Supreme Court in **Patil Automation Private Limited & others Vs Rakheja Engineers Private Limited**, 2022 SCC Online SC 1028, the suit was not maintainable. This Court rejected the plaint with the following



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observations:

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"22. Before writing the concluding paragraph of this order, it is made clear that all rights and contentions of the plaintiff are preserved for approaching this Commercial Division after exhausting pre-institution mediation and settlement under Section 12A of CCA. Any view expressed in this order will neither impede nor serve as an impetus if this suit unfurls on a future date. In other words, the views expressed in this order are only for the limited purpose of testing the captioned main suit under Section 12 of CCA, in the light of the elucidation that it is only after Patil Automation principle."

4. Considering the fact that leave was granted on an earlier occasion and also considering the fact that part of cause of action has arisen within the Jurisdiction of this Court in view of the fact that agreement was executed in Chennai, which preceded a Minutes of the Meeting (MoM) dated 31.12.2019, leave is granted.

5. Registry is directed to number the suit, if the suit papers are otherwise in order.

12.01.2023

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