



A.No.2899 of 2023

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and Arb.O.P.(Comm.Div.) No.391 of 2022

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SENTHILKUMAR RAMAMOORTHY,J

An arbitral award was pronounced by the tribunal constituted by the National Stock Exchange on 07.05.2009. The said award was challenged by the respondent before the arbitral tribunal by filing O.P.No.413 of 2009 before this Court. By order dated 30.08.2019, the petition was partly allowed and, consequent to the award in respect of the counter claim being set aside, the learned Single Judge of this Court remanded the matter to the arbitral tribunal for re-consideration. The applicant herein carried the matter in appeal before the Division Bench. By Judgment dated 21.09.2021, the appeal was allowed to the extent of setting aside the direction for remand. Prior thereto, the respondent in this application filed a petition under Section 11 of the Arbitration and Conciliation Act, 1996. After noticing that clause 26 of the agreement between the parties provides for disputes to be referred to arbitration in accordance with the rules, bye laws and regulations of the National Stock Exchange, I dismissed the petition as premature I also left it open to the petitioner to approach the National Stock Exchange for the purpose of constitution of an arbitral tribunal.

2. Learned counsel for the applicant submits that the order may be clarified insofar as it contains a sentence to the effect that there are



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outstanding unresolved disputes. This request is opposed by learned counsel for the respondent who submits that it is for the arbitral tribunal and not the National Stock Exchange (i.e. the appointing authority) to decide such contentious issues.

3. In the order dated 07.09.2022, no opinion was expressed on the merits of the dispute. Hence, the order dated 07.09.2022 does not warrant clarification. Nonetheless, in view of the contentions raised by the parties, it is clarified that, upon constitution of the arbitral tribunal, it is open to both parties to raise all contentions and the arbitral tribunal may determine the same uninfluenced by any observations in the earlier order.

14.06.2023

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