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A.Nos.2747 and 2749 of 2024 in C.S. (Comm. Div.) No.50 of 2024

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C.S. (Comm. Div.) No.50 of 2024 and
A.No.2750 of 2024

P.VELMURUGAN. J.

These applications have been filed by the defendant invoking Section 8 of the Arbitration and Conciliation Act, 1996 (for brevity "the Act").

2. The learned counsel for the applicant/defendant submitted that there are arbitration clause in clause 20 and 17 of the TCP and MoA dated 01.12.2022 entered into between the applicant/defendant and the 1st plaintiff, as per which, if any dispute arises out of the transaction, the same should be referred to arbitration. Therefore, soon after the receipt of the suit summons, the applicant/defendant invoked Section 8 of the Act to refer the matter to Arbitration. However, since it is a commercial suit and there is a forfeiture clause in the Act if the written statement is not filed within the stipulated time, the defendant would forfeit their right of filing the written statement and in case, the application is not taken on file or



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disallowed, the right of the applicant/defendant to file the written statement would be defeated. Therefore, the applicant/defendant filed these applications and thereafter, has filed the written statement.

3. A perusal of the entire materials, the affidavits filed by the applicant/defendant and records of the Registry and also the arbitration clauses, shows that these applications have been filed on 12.04.2024 by invoking Section 8 of Act and thereafter, the applicant/defendant has filed the written statement on 18.04.2024. Since the applicant/defendant has filed these applications prior to filing of the first statement and since there are arbitration clauses in the said agreements (Time Charter Party and Memorandum of Agreement), the applicant/defendant is entitled to invoke Arbitration clause.

4. Further, when the matter came up before this Court on 20.06.2024, this Court had directed the matter to be listed on 26.04.2024 for filing counter and disposal.



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5. However, when the matter is taken up for hearing today (24.06.2024), the respondents/plaintiffs have not filed counter affidavit.

6. Considering the above facts and circumstances of the case, this Court finds that it is a fit case to invoke Section 8 of the Act.

7. Accordingly, both the applications are allowed.

24.06.2024

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