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**O.S.A (CAD) No.48 of 2024**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.06.2024**

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

**O.S.A (CAD) No.48 of 2024**

**&**

**C.M.P.No.11320 of 2024**

1. Mr.S.Sekar

2. Mrs.S.Vijaya

... Appellants

Vs.

M/s.Aqua World Exports (Pvt.) Ltd.,  
Represented by its Managing Director  
Mr.S.Haridas  
No.7, Ground Floor, Alsa Towers  
No.186/197, Poonamallee High Road  
Kilpauk, Chennai – 600 010

.. Respondent

Original Side Appeal filed under Order XXXVI Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent and Order 13(1) of Commercial Courts Act, 2015 against the order dated 06.11.2023 passed in A.No.3226 of 2023 in C.S (Comml.) No.28 of 2023.

For Appellants : Mr.R.Raman Laal

For Respondent : Mr.T.V.Vineeth Kumar

**JUDGMENT**



**O.S.A (CAD) No.48 of 2024**

(Judgment of the Court was delivered by **M.Sundar, J.**)

Mr.R.Raman Laal, learned counsel for two appellants, who are spouses, is before us.

2. An application for rejection of plaint [A.No.3226 of 2023] came to be dismissed by an 'order dated 06.11.2023' [hereinafter 'impugned order' for the sake of brevity and convenience] by the Commercial Division and the captioned 'Original Side Appeal' ['OSA' for the sake of brevity] is directed against the same.

3. Learned counsel for appellants contended that the transaction *qua lis* does not fall within any one of 21+1 [22] clauses of Section 2(1)(c) of 'The Commercial Courts Act, 2015 [Act 4 of 2016]' [hereinafter 'CCA' for the sake of brevity] but we refrain from expressing any opinion on this submission owing to the trajectory the matter is taking before us, which has been captured / set out *infra*.



**O.S.A (CAD) No.48 of 2024**

4. Mr.T.V.Vineeth Kumar, learned counsel on record for plaintiff, who is the sole respondent before us, was present in Court and on this Court being inclined to issue notice in captioned OSA and captioned CMP thereat, learned counsel accepted notice for the sole respondent.

5. After some arguments, both learned counsel agreed for having the matter referred to mediation and also agreed for disposal of main OSA by way of a consent order. The consent order which will now dispose of the captioned OSA and the CMP thereat is as follows:

i) Both parties agree to resort to mediation for exploring the possibility of concluding / giving a closure to the main matter;

ii) 'CMH' ['Case Management Hearing'] drawn up on 22.04.2024 {obviously under Order XV-A of amended the Code of Civil Procedure, 1908 ['CPC' for the sake of brevity] as amended vide CCA} is set aside and for the sake of abundant clarity and specificity, we make it clear that 22.04.2024 proceedings which is now set aside is as follows:



WEB COPY



**O.S.A (CAD) No.48 of 2024**

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O.S.A (CAD) No.48 of 2024

**P.VELMURUGAN, I**

Proot affidavits of plaintiff and defendants have been filed.

2. P.W.1 is directed to appear before the learned Master No.III, on 03.06.2024 and the learned counsel for the defendants is directed to cross examine P.W.1 on 03.06.2024 and 04.06.2024.

3. D.W.1 is directed to appear before the learned Master No.III, on 05.06.2024 and the learned counsel for the plaintiff is directed to cross examine D.W.1 on 05.06.2024 and 06.06.2024.

4. D.W.2 is directed to appear before the learned Master No.III on 07.06.2024 and the learned counsel for the plaintiff is directed to cross examine D.W.2 on the same day.

5. List the matter on 14.06.2024 "for filing written arguments".

By

22.04.2024

iii) This Court is not interfering with the impugned order and this means that the captioned suit will go back before Commercial Division, if no settlement is arrived at in the mediation;

iv) Registry to list this matter before 'Tamil Nadu Mediation and Conciliation Centre under the aegis of this Court' ['TNMCC' for the sake of brevity] and the first sitting shall be on 05.06.2024 at 03.00 pm;



**O.S.A (CAD) No.48 of 2024**

WEB COPY

v) As regards the appellants who are spouses, learned counsel Mr.Raman Laal submits that both will be present before TNMCC at 03.00 pm on 05.06.2024 without insisting on separate hearing notice. As regards the plaintiff, which is a private limited company, learned counsel submits that the individual, who has verified the plaint, namely Mr.S.Haridas, {Managing Director of the plaintiff company} will be present before TNMCC on 05.06.2024 at 03.00 pm;

vi) Though the captioned OSA and CMP are being disposed of by this order, in the light of Circular dated 26.09.2016 bearing reference ROC No.111/2006-CON.ESTT.I, TNMCC is requested to send a report to this Court in five weeks from today i.e., by 08.07.2024;

vii) If there is a settlement, the same will be recorded by this Bench in the light of Circular dated 26.09.2016 bearing reference ROC No.111/2006-CON.ESTT.I. If there is no settlement, as already alluded to supra, the suit in C.S (Comm.Div.) No.28 of 2023 and the applications thereat will go before the Commercial Division;



O.S.A (CAD) No.48 of 2024

viii) We also make it clear that thereafter

Commercial Division will draw up a fresh CMH as 22.04.2024 proceedings have been set aside.

6. Captioned OSA and CMP are disposed of in the aforesaid manner vide this consent order. There shall be no order as to costs.

Be that as it may, though disposed of, Registry to list this matter before this Court under the cause list caption 'FOR MEDIATION REPORT' on 09.07.2024.

(M.S.J.) (K.G.T.J.)  
03.06.2024

Index: Yes/No

Neutral Citation: Yes/No

gpa

**P.S. I:** Upload forthwith

**P.S.II :** All concerned including the Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.



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**O.S.A (CAD) No.48 of 2024**

**M.SUNDAR.J.,**

**and**

**K.GOVINDARAJAN THILAKAVADI, J.,  
gpa**

**O.S.A (CAD) No.48 of 2024**

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