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O.S.A.(CAD) Nos.15 and 16 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

O.S.A.(CAD).Nos.15 and 16 of 2022
and
C.M.P.Nos.2192 and 2220 of 2022

M/s.Hatsun Agro Product Ltd.,
No.5A, Vijayarajava Road, T.Nagar,
Chennai – 600 017
Having registered Office at
No.1/20-A, Rajiv Gandhi Salai (OMR),
Karapakkam, Chennai – 600 097
And also carrying on it business at
Old No.AD-83/New No.AD13,
Anna Nagar, Opp. IOB Towers Branch,
Chennai – 600 040.

...Appellant in both OSAs

Vs.

A.Biju

...Respondent in both OSAs

Prayer: Original Side Appeals (Commercial Appellate Division) filed under Section 13(1) of the Commercial Courts Act, 2015, Order XXXVI Rule 9 of Original Side Rules and Section 37(B) of Arbitration and Conciliation Act, 1996 r/w.Section 15 of Letters Patent Act to set aside the order passed in

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Arbitration Application Nos.89 and 88 of 2021 respectively dated 20.10.2021 on the file of this Court by allowing these appeals.

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For Appellant : Ms.Reshmi Christy

for M/s.Royan Law Associates

For Respondent : No appearance

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

Challenge in these appeals is to the order of the learned Judge made in the Applications under Section 9 of the Arbitration and Conciliation Act.

2. Though the applications were filed under Section 9 of the Arbitration and Conciliation Act, a reading of the order shows that there was a consent for appointment of a named Arbitrator by the parties before the learned Judge. The same has been recorded in the following terms by the learned Judge:

4. Though these petitions have been filed for interim measures, both sides have no objection to appoint Mr.D.Balaraman, Advocate, as a sole Arbitrator to arbitrate the dispute between the parties.



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3. The learned counsel for the appellant would now contend that such consent was not given.

4. We do not think that we can entertain such a plea in an appeal. This Court and the Hon'ble Supreme Court have repeatedly pointed out that if an order appears from its terms to be a consent order, an appeal shall not lie and if it is claimed that such consent was not given, it is for the parties to approach the same Court by way of review.

5. Hence, both the appeals are **dismissed** with liberty to file a review. No costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.M., J.) (R.S.V., J.)
01.02.2024

dsa

Index : No

Internet : Yes

Neutral Citation : No

Speaking order



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and
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