

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30<sup>TH</sup> DAY OF APRIL, 2015

BEFORE

**THE HON'BLE MR.JUSTICE ARAVIND KUMAR**

CIVIL MISCELLANEOUS PETITION NO.14/2014

**BETWEEN:**

M/S.SIMBUS TECHNOLOGIES PRIVATE LTD.  
A COMPANY INCORPORATED UNDER  
THE COMPANIES ACT, 1956,  
HAVING ITS OFFICE AT  
NO.210, 20<sup>TH</sup> MAIN, 4<sup>TH</sup> CROSS,  
BTM LAYOUT I STAGE,  
BENGALURU – 560 068  
REP. BY ITS MANAGING DIRECTOR  
MR.R.KRISHNA KUMAR

... PETITIONER

(BY SRI.JOSHUA HUDSON SAMUEL, ADVOCATE)

**AND:**

1. MR.BALAJI THOMAS  
SON OF JOSEPH THOMAS  
AGED ABOUT 43 YEARS,  
AT D-304, SALARPURIA SERENITY,  
5<sup>TH</sup> MAIN, 7<sup>TH</sup> SECTOR, HSR LAYOUT,  
BENGALURU – 560 102
2. MR.SENTHIL NATARAJAN  
SON OF S.NATARAJAN  
AGED ABOUT 37 YEARS,  
AT NO.C-204, SALARPURIA SERENITY,  
5<sup>TH</sup> MAIN, 7<sup>TH</sup> SECTOR, HSR LAYOUT,  
BENGALURU – 560 102

.....RESPONDENTS

(BY SRI.C.K.NANDKUMAR, ADV. FOR R1-R2)

THIS PETITION IS FILED UNDER SECTION 11(5) OF THE ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO APPOINT A MR.V.TARAKRAM SENIOR COUNSEL, OR ANY OTHER ADVOCATE OR A RETIRED JUDGE OR ANY OTHER COMPETENT PERSON THAT THIS HON'BLE COURT DEEMS FIT AND PROPER, AS THE SOLE ARBITRATOR TO ADJUDICATE UPON THE DISPUTE UNDER THE SHARE SUBSCRIPTION AND SHARE HOLDERS AGREEMENT DATED 20.10.2011 AND CONSEQUENTLY REFER THE DISPUTE OF THE PARTIES TO ARBITRATION.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 (for short the 'Act'), seeking for appointment of arbitrator contending interalia that pursuant to agreement entered into between the parties on 20.10.2011 a dispute has arisen in respect of said agreement and Clause 13.9 of said agreement provides for resolution of disputes by taking recourse to arbitration in accordance with provisions of the Act. It is further contended by petitioner that on account of disputes having arisen between parties,

notice came to be issued by petitioner on 16.12.2013, Annexure-K calling upon respondent to comply with demand made therein and failure to pay the amount demanded thereunder to concur with the appointment of arbitrator suggested under the said notice to resolve the dispute arisen under agreement dated 20.10.2011. Respondent by its reply dated 27.01.2014, Annexure-L has denied the claim of petitioner and also refused to concur with the appointment of arbitrator and also raised a counter claim against the petitioner.

2. Learned Advocates appearing for parties have filed a memorandum of settlement today under Section 89 of CPC and agreeing thereto that neither of the parties have any claims against each other as per terms and conditions set out in the memorandum of settlement. Said memorandum of settlement entered into between the parties under Section 89 of CPC, is placed on record. Accordingly, petition stands disposed of by recoding said settlement. Said memorandum of

settlement entered into between the parties has been placed on record and parties who have affixed their signature to said settlement are before the Court namely, Managing Director of petitioner - Sri.R.Krishna Kumar and respondents 1 and 2 namely Sriyuths Balaji Thomas and Senthil Natarajan. They have been identified by the respective learned Advocates. Parties present before Court have also stated that out of their own free will, volition and without any force, threat or coercion they have entered into said settlement.

3. In that view of the matter, I do not find any impediment for accepting the said memorandum of settlement entered into between the parties. Same is hereby accepted and placed on record. Accordingly, petition stands disposed of in terms of settlement arrived at between the parties.

**Sd/-  
JUDGE**

DR