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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ EFA(OS) (COMM) 1/2016

VIJAY SINGH MINOCHA

..... Appellant

Through:

Mr Sandeep Sethi, Sr. Adv. with Mr
Ashok Kr. Babbar, Mr Atul Babbar & Mr
Surinder Kumar Sharma, Advs.

versus

M/S S E INVESTMENT LTD

..... Respondent

Through:

Mr P. Nagesh, Adv.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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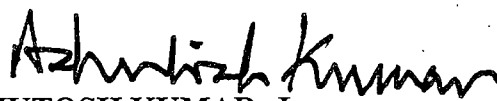
19.01.2017

This is an appeal preferred against the order dated 11.11.2016 which was passed in IA No.10978/2016 which in turn was an application filed on behalf of the appellants/judgment debtors praying that the enforcement petition being OMP (EMF.) (COMM.) 35/2016 filed by the respondents be dismissed inasmuch as the judgment debtors/appellants have preferred a petition under Section 34 of Arbitration & Conciliation Act, 1996 seeking to set aside the award dated 16.09.2015. The contention of the appellant before the learned single Judge was that since the award was passed prior to 23.10.2015, the amendments to Section 36 of the said Act would not be applicable. The learned single Judge relying on another decision delivered by him in OMP (I) (COMM) 23/2015 **Raffles Design International India Private Limited and Anr. v. Educomp Professional Education Limited & Ors.** decided on 07.10.2016, held that the amended provisions would apply and the mere filing of petition under Section 34 would not amount to automatic stay. In view of the said decision in *Raffles Design (supra)*, the learned single Judge dismissed the application of the appellant.

However, subsequently a Division Bench of this Court in FAO 221/2016 *Ardee Infrastructure vs. Anuradha Bhatia* decided on 06.01.2017 held that in cases where the award has been passed prior to 23.10.2015 the un-amended provisions of the Arbitration & Conciliation Act, 1996 would continue to apply. This meant that in those cases where Section 34 petitions are filed, it would result in automatic stay of the enforcement of the awards till the disposal of the petitions under Section 34. The present appeal is entirely covered by our decision in *Ardee Infrastructure (supra)* in favour of the appellants. Consequently, the impugned order is set aside.

The appeal is allowed as aforesaid.


BADAR DURREZ AHMED, J


ASHUTOSH KUMAR, J

JANUARY 19, 2017
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