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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 184/2018**

KUSUMLATA

..... Petitioner

Through: Ms Vatsalya Vigya, Advocate for Ms
Priyadarshi Chaitanyashil, Advocate.

versus

**GRAND VENEZIA COMMERCIAL TOWERS
PVT. LTD**

..... Respondent

Through

**CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU**

ORDER

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12.03.2018

IA No.3358/2018

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an independent Arbitrator be appointed to adjudicate the disputes that have arisen between the parties.

3. The present petition is misconceived as a Sole Arbitrator was appointed by a letter dated 07.08.2017 and the Arbitral Tribunal has been constituted. The Arbitral Tribunal is in seisin of the disputes.

4. The petitioner had challenged the appointment of the Arbitrator under Section 12 of the Act. However, that challenge was rejected by the Arbitrator.

5. In terms of Section 13(4) of the Act, if the challenge to the Arbitration is rejected, the Arbitral Tribunal is required to continue with the arbitral proceedings and make an arbitral award. The petitioner's challenge to the appointment of the Arbitrator on the ground that he is biased or that other circumstances exist which raise justifiable doubts as to his independence, would have to await the final award. It would be open for the petitioner to challenge the arbitral award on the said grounds at an appropriate stage and the same would be considered in accordance with law. (See: *Progressive Career Academy Pvt. Ltd. v. FIITJEE Ltd.: 180 (2011) DLT 714*).
6. However, at this stage, there is no scope for entertaining the present petition for appointment of an arbitrator.
7. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

MARCH 12, 2018
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