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

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ARB.P. 113/2018 & I.A. No.1982/2018

AMIT GUPTA & ANR.

..... Petitioners

Through Mr. Nitin Lonkar and Ms. Sonal  
Suryawanshi, Advs.

versus

FIITJEE LIMITED

..... Respondent

Through Ms. Pooja Kashyap, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**ORDER**

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**11.03.2019**

1 Prima facie, this petition has been filed under a wrong provision of law. The petition has been filed under Section 11 (6) and (8) of the Arbitration and Conciliation Act, 1996 (in short '1996 Act').

2 However, a perusal of the petition shows that the petitioners had challenged the appointment of the Arbitrator by taking recourse to Section 12 of the 1996 Act. The Arbitrator, vide order dated 03.06.2017, dismissed the application filed by the petitioners under Section 12. A perusal of the order would show that two reasons have been given by the learned Arbitrator for dismissing the application. First, that the petitioners had raised an objection to his appointment after participating in, at least, five hearings. Second, that the

provisions of the amended Act were prospective.

3      Insofar as the second reason is concerned, it needs to be ascertained as to when arbitration proceedings commenced i.e. the date on which the request was made that the disputes be referred to arbitration as envisaged under Section 21 of the 1996 Act. The first line of the order dated 03.06.2017 passed by the Arbitrator seems to indicate that the respondent/claimant had triggered arbitration proceedings vide notice dated 29.07.2015. The amendments to the 1996 Act were brought into force w.e.f. 23.10.2015.

4      Learned counsel for the petitioner says that there is a typographical error has crept in as regards the date when arbitration proceedings commenced. It is stated that respondent/claimant's notice is in fact dated 29.07.2016 and not 29.07.2015.

5      In these circumstances, the copy of the respondent/claimant's notice shall be placed on record.

6      Furthermore, *de hors* the aforesaid, learned counsel for the respondent/claimant will also take instructions as to whether it would have any objection to an independent Arbitrator being appointed by this Court.

7      At request, renotify the matter on 09.05.2019.

**RAJIV SHAKDHER, J**

**MARCH 11, 2019**

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