

M/s Venu Engineers Vs Dy. General Manager, I/c (Contracts) MECO Ltd.

Court: Jharkhand High Court

Date of Decision: Feb. 3, 2012

Citation: (2012) 2 JCR 81

Hon'ble Judges: Prakash Tatia, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Prakash Tatia, C.J.

Heard learned counsel for the parties.

2. An agreement between the parties was executed on 23rd March, 2009, wherein it has been provided that entire scope of civil engineering work

required for construction of COB 6, RSP, Rourkela shall be carried out by M/s Otto Projects alongwith their consortium partner M/s Venu

Engineers as per responsibility matrix given in MOU dated 17th November, 2008. Both M/s Otto Projects and M/s Venu Engineer shall be jointly

and severally responsible for completion of the work. In case, any one partner fails, the other party shall be responsible to complete the work of

defaulting partner.

3. A dispute arose between the parties and in view of the Arbitration Clause, which is Clause no. 36.0, the petitioner served a notice upon the

respondent, copy of which has been placed on record as Annexure-2. In spite of the notice, Arbitrator having not been appointed, this application

has been submitted.

4. Learned counsel for the respondent submitted that in the Arbitration application, the Deputy General Manager of the MECON Ltd. has been

impleaded as party; whereas MECON is a legal entity and the arbitration application is not maintainable against the Deputy General Manager.

Learned counsel for the petitioner submitted a supplementary affidavit praying that MECON Ltd. may be impleaded as party-respondent and it is

only a technical error and cannot be fatal.

5. In view of the above, the MECON Ltd. is impleaded as party- respondent through Deputy General Manager in this petition. Since, there is no

dispute regarding the contract between the parties, which contains Arbitration clause, and dispute is there, for which a notice has been served by

the petitioner and inspite of notice, no Arbitrator has been appointed, therefore, with consent of the parties, Justice D.N. Prasad, a retired Judge of

Jharkhand High Court, is, hereby, appointed as an Arbitrator to adjudicate the dispute between the parties, who may fix the remuneration and the

expenses, which will be borne by both the parties equally.

6. This application is, thus, allowed.