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**(2009) 07 JH CK 0034**

**Jharkhand High Court**

**Case No:** None

Diesel Care

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision:** July 20, 2009

**Hon'ble Judges:** Gyan Sudha Mishra, C.J; Dilip kumar sinha, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

1. This appeal has been filed against the order dated 30.06.2008 passed by the learned Single Judge in W.P. (C) No. 6852/2007 whereby the learned Single Judge had been pleased to dismiss the writ petition filed by the petitioner/appellant herein who had challenged the order passed by the Chief Engineer, Water Resources Department, Aurangabad, Government of Bihar which admittedly falls within the territorial jurisdiction of the State of Bihar after bifurcation.

2. The learned Single Judge had been pleased to hold that the writ petition cannot be entertained for want of territorial jurisdiction as the appropriate forum for the petitioner would be to approach the State of Bihar for redressal of its grievance.

3. This appeal has been filed against this order passed by the learned Single Judge in support of which the learned Counsel submitted that the cause of action although partly had arisen in Bihar in the district of Aurangabad, yet, the supply of generator set was made at Palamau which falls within the State of Jharkhand.

4. The counsel, therefore, submitted that the jurisdiction of the dispute in regard to non-payment would arise in the State of Jharkhand because the supply was made in Palamau which is in the State of Jharkhand and the supply order was also placed in the State of Jharkhand.

5. We, however, do not find substance in the argument advanced by the counsel as the cause of action is not related to the dispute in regard to the supply of the

materials and the principal question for determination is whether the Chief Engineer in the State of Jharkhand was justified in not making payment to the petitioner/appellant herein for the supply that has been made. Besides this, if it were to be held that dual territorial jurisdiction would lie in the State of Jharkhand as also in the State of Bihar, the same is bound to result into complication even in regard to the execution which is not difficult to foresee. Assuming that an order were to be passed by this Court to the effect that the payment shall be made to the petitioner/appellant herein on account of the supply of the goods, obviously the execution of the order will have to be made against the State of Bihar and it might be an easy and a convenient scapegoat for the State of Bihar to contend at the relevant time that the payment will have to be made to the petitioner/appellant herein through the State of Jharkhand.

6. This Court is incessantly confronted with a situation of this nature and we do not consider it appropriate to take a view that dual jurisdiction would be just and appropriate, considering the practical fall out of dual jurisdiction. In fact, the plea of dual jurisdiction could have been held arguable, if the payment also were to be made by the State of Jharkhand. But in the instant matter, admittedly payment will have to be made by the State of Bihar since prior to the bifurcation, the cause of action arose in the State of Bihar and after supply of goods, payment also is to be made by the State of Bihar. Therefore, the entire transaction relating to the dispute falls within the State of Bihar and hence, we concur with the view taken by the learned Single Judge that the State of Jharkhand, in the instant matter, lacks jurisdiction due to which the petitioner will have to approach the State of Bihar for redressal of its grievance.

7. The appeal, therefore, is dismissed as not maintainable in the State of Jharkhand.