

(2022) 08 OHC CK 0119
In the Orissa High Court
Case No : ARBA No. 4 Of 2021

Jindal India Thermal Power Ltd

APPELLANT

Vs

Quartz Infra and Engineering Pvt. Ltd

RESPONDENT

Date of Decision : 12-08-2022

Acts Referred:

Citation : (2022) 08 OHC CK 0119

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : S.P.Mishra, Goutam Mukherjee, Satyajit Mohanty, Prashant Mehta, Asit Kumar Dash, D. P. Sahu, Divita Vyas, Vegesna Subba Raju

Final Decision : Dismissed

Judgement

Arindam Sinha, J

1. Representative of respondent appears in person and submits, he is not pressing I.A nos.50 and 51 of 2022. Mr. S. P. Mishra, learned senior advocate leading Mr. Mukherjee, learned senior advocate appears on behalf of appellant. These applications are dismissed as not pressed.

2. Mr. Mukherjee, resumes argument on behalf of appellant.

3. He draws attention to paragraphs 206 to 213 in the award (pages 380-381). He submits, respondent abandoned the work. The tribunal however purported to find respondent was forced to leave the work on coercion and undue influence applied by his client, enjoying dominant position over it. He refers to documents to substantiate the contention.

4. Appellant had filed volume 10 being convenience compilation of documents. Mr. Mukherjee refers to page 73 being discussion of meeting held on 3rd August, 2012. He points out from serial no.8, revised work completions schedule for raw water reservoir and ash dyke were respectively November and December, 2004. He then refers to mail dated 17th August, 2012 of respondent to submit, this

was first writing issued by it on cancellation of the contract(s). Even then, he submits, by mail dated 4th December, 2012 his client had sought confirmation from respondent on extended dates for completion of the work. This extension was not confirmed by respondent, in not signing and sending back the programme.

5. He refers to pages 186 and 191 of the compilation to submit, both are dated 2nd February, 2013, one issued by his client and the other by respondent. He submits, on perusal of contents of both it will clear that respondent took the exit route, to leave the contract and have joint measurement thereafter. He submits, there was no dispute to be referred. Rs.2.73 crores was amount settled by his client on claim of Rs.3.18 crores made by respondent and paid. As such, awarded amount is really compensation for alleged breach of contract by terminating it, purportedly found by the tribunal, without appreciating the facts.

6. Appellant will be heard to conclude on adjourned date. List on 30th August, 2022 marked at 2:00 P.M.

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