

## Kvaerner Cementation India Ltd. v. Bajranglal Agarwal, (2012) 5 SCC 214

### Arbitration

Arbitration and Conciliation Act, 1996

Ss. 16, 7, 5 and 34 - Jurisdiction of arbitrator to rule on its own jurisdiction - Interference of civil court with exercise of power of arbitrator under S. 16 - Impermissibility - Need for determination of issue(s) as to its own jurisdiction as preliminary issue(s) by arbitrator - High Court refusing to interfere with arbitration proceedings on ground of non-existence of arbitration agreement and leaving matter to be decided by arbitrator - Contention that jurisdiction of civil court could not be ousted unless excluded by statute - Sustainability - Held, no dispute can be referred for arbitration in absence of any arbitration clause in agreement - However, once arbitration proceedings are initiated, S. 16 confers power on arbitrator to rule on its own jurisdiction including ruling on any objection with respect to existence or validity of arbitration agreement - Hence, civil court does not have jurisdiction to go into said questions - In instant case, appellant being party to said arbitral proceedings, held, question as to jurisdiction of arbitrator and non-existence of arbitration agreement has to be raised before arbitrator and the same are required to be determined as preliminary issues - Lastly, order of arbitrator on issue of its jurisdiction can be challenged under S. 34, (2012) 5 SCC 214-A

### Arbitration

Arbitration and Conciliation Act, 1996

Ss. 7, 8 and 11 - Reference to arbitration - Non-existence of arbitration clause in agreement - Effect - Held, in absence of arbitration clause in the agreement, no dispute can be referred for arbitration, (2012) 5 SCC 214-B