

NLS NIMIC

**THE VII NLS - NEGOTIATION, MEDIATION
AND CLIENT COUNSELLING COMPETITION
28 APRIL - 2 MAY 2021**

MEDIATION

**FINAL ROUND
GENERAL INFORMATION**

A PROJECT GONE OFF THE RAILS

HelloKitty Engineering and LootMore Constructions set up a Joint Venture to bid for a tender for the construction of a railway station. The Joint Venture was owned 90% by HelloKitty and 10% by LootMore. The agreement between the two, however, was that LootMore would take a 10% share of the final profit, and only really lend its name to the tender bid and not be involved in day-to-day operations. HelloKitty had asked it to be a JV partner since it did not have the technical qualifications (in terms of number of projects done) to secure the tender by itself. It was however capable of running the project on its own, and the internal arrangement was that HelloKitty would do everything from beginning to end, loan the JV whatever money was needed for the construction, and cut LootMore in to the tune of 10% of the total profit. The profit will effectively be the final fee the Railways would pay minus all expenses the JV has incurred. This is only for Lootmore's contribution in securing the tender. The total fees that the Railways would pay the JV was to be INR 100 crore.

Five years later, the project has run into severe trouble.

HelloKitty is having significant financial issues. They have been unable to pay their workers. So far, the workers have not gone on strike – a strike is, however, impending. A full year's worth of salary has not been paid. There are approximately 40 workers, and they all earn between INR 10,000 and 20,000 per month.

The project has already seen significant delays. Any further delay runs the risk of the Railways cancelling the whole project and re-tendering, in which case the loss would be financially devastating for HelloKitty, which has already invested significant money in the project. It would also mean both companies get blacklisted by the Railways – an event that would cause immense financial distress for both companies.

The strike is not the only way this fiasco could come about, though. HelloKitty is also running low on the funds needed for the actual construction, and it does not have at hand the funds that are required to continue to source sand, cement, and other raw material for the project.

LootMaro and HelloKitty both received notices from the railways saying that if they do not finish the project within six months, they should be prepared for consequences like cancellation and re-tendering, followed by blacklisting of both.

LootMaro then filed a lawsuit against HelloKitty, claiming it did not uphold its obligations as a partner in the JV, presumably to try to distance itself from the whole fiasco.

HelloKitty reached out and suggested mediation. LootMaro replied in the affirmative, which is why this mediation is now being conducted. Both companies are represented by their CEOs and General Counsels.

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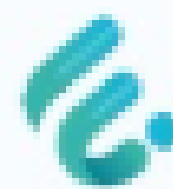


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