

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4721 of 1991 (O&M)

Date of Decision: 16.08.2017

M/s Ashok Kumar Pawan Kumar

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. TPS Tung, Advocate for the petitioner

Ms. Anu Pal, AAG Punjab

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP Nos.4721 of 1991; 4161 of 1992 as in both the cases, the question which falls for consideration is whether the State of Punjab is competent to demand Royalty from the petitioner(s) for extracting brick earth from the land which the petitioner(s) had taken on lease from the private land-owners?

(2) The Royalty was sought to be levied under the Punjab Minor Mineral Concession Rules, 1964 formulated in exercise of powers under the Mines and Minerals (Development and Regulation) Act, 1957.

(3) Learned State counsel fairly concedes that identical controversy came up for consideration of the Hon'ble Supreme Court in **State of Punjab vs. M/s Vishkarma and Co. & Ors. (1993) Supp.(3) SCC 62** wherein it has been held that the State cannot recover Royalty for extraction of brick earth when the ownership of the land vests in private persons.

(4) The writ petitions are accordingly allowed being covered by the cited judgment and the impugned orders-cum-notices (P1) are hereby quashed.

(5) Ordered accordingly.

(Surya Kant)
Judge

16.08.2017

vishal shonkar

(Sudhir Mittal)
Judge