

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-421-1990 (O&M)
Date of decision : 16.03.2023

State of Punjab and another ... Appellant(s)

Versus

M/s Jagdish Rai ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kunal Muthreja, AAG Punjab for the appellants.

Mr. Shiv Kumar Sharma, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

The present appeal has been preferred by the defendant-appellants (State) against the judgment and decree dated 06.09.1989 passed by the First Appellate Court.

The brief facts relevant to the present *lis* are that the plaintiff-respondent filed a suit for permanent injunction for restraining the defendant-appellants from assessing and recovering any amount by way of royalty on the brick earth extracted by the plaintiff-respondent from his land and the land taken on lease from private persons for preparation of bricks at his brick kiln situated in village Pato Hira Singh. The Trial Court vide judgment and decree dated 14.09.1986 dismissed the suit. Aggrieved by the said judgment and decree, an appeal was preferred by the plaintiff-respondent and vide judgment and decree dated 16.09.1989 the same was allowed. Aggrieved by the same, the present appeal has been preferred by

the defendant-appellants.

RSA-421-1990 (O&M)

-2-

At the outset, learned counsel for the plaintiff-respondent has referred to the judgment passed by this Court in **The State of Punjab & Ors. Vs. M/s Ram Dass Bhagwan Dass [2012 (5) RCR (Civil) 280]** wherein relying upon the judgment of Hon'ble Supreme Court in the case of **State of Punjab Vs. M/s Vishkarma & Co. [1993 (2) Recent Revenue Reports 38]** and judgment of this Court in the case of **M/s Om Parkash Brick Kiln Owner V/s State of Punjab & Ors. [2008 (1) RCR (Civil) 447]**, it has been held that if the brick earth (a minor mineral) is found in the land of a private owner and the land owner has permitted removal of the brick earth by brick manufacturers, there would be no requirement to pay royalty to the State.

Learned counsel for the defendant-appellants is not in a position to dispute the said judgments or that the facts of the present case are similar.

In view of the above and keeping in view the law laid down by the Hon'ble Supreme Court in the case of **M/s Vishkarma & Co.** (supra) and the decisions by this Court in the cases of **M/s Om Parkash Brick Kiln Owner** (supra) and **The State of Punjab & Ors. Vs. M/s Ram Dass Bhagwan Dass** (supra), I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination by this Court. The regular second appeal, which is wholly devoid of any merit, is dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

16.03.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE