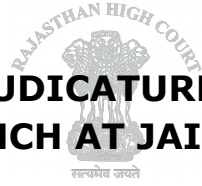




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 6215/2018

Damodar Lal Gupta S/o Shri Nanagram Gupta, Resident Of C-1,
Sethi Colony, Jaipur Raj.

----Petitioner

Versus

1. State Of Rajasthan Through Principal Secretary,
Department Of Mines And Geology, Government
Secretariat, Jaipur.
2. The Joint Secretary, Department Of Mines And Geology,
Government Of Rajasthan, Secretariat, Jaipur.
3. The Additional Director Mines, Department Of Mines And
Geology, Government Of Rajasthan, Khanij Bhawan, Tilak
Marg, Jaipur
4. The Mining Engineer, Department Of Mines And Geology,
Khanij Bhawan, Tilak Marg, Jaipur

----Respondents

For Petitioner(s) : Mr. Kedar Solanki
For Respondent(s) : Mr. Rahul Lodha, AGC

HON'BLE MR. JUSTICE AVNEESH JHINGAN

Order

23/07/2024

1. This petition is filed seeking quashing of notices dated 31.07.2014, 29.01.2015 and 03.02.2018 issued by Mining Engineer/Assistant Mining Engineer for recovering amount payable against Short Term Permit (for brevity 'STP').

2. The brief facts are that on 02.04.2006 petitioner was granted STP for mining earth for brick making. Amount of Rs.83,510/- in pursuance to the letter dated 15.02.2006 was deposited and on 26.03.2007 petitioner filed an application for surrendering the STP. The application got misplaced in the office of respondent,



petitioner submitted another application on 23.06.2007. The application was dismissed by the Mining Engineer on 29.06.2007 and demand notice dated 06.08.2007. On failure to deposit demand, the security amount was forfeited vide order dated 19.01.2008. In revision filed by petitioner against the impugned order dated 19.01.2008 the order was set aside and the matter remanded for decision afresh. After remand, impugned notices were issued for recovery of the outstanding amount, hence present petition.

3. Learned counsel for the petitioner submits that the revisional authority had set aside the impugned order and without passing an order, recovery proceedings were initiated.

4. Learned counsel for the respondent submits that notices were issued but the petitioner failed to appear and the remand proceedings could not be concluded.

5. The petitioner succeeded in revision and the impugned order was set aside. In other words, no order of demand existed after the decision by the revisional authority. After the remand, no order was passed but the notices for recovery were issued. It is a trite law that recovery notices are to be preceded with an order creating the demand.

6. The impugned notices are set aside. The respondent No.4-Mining Engineer shall be at liberty to proceed in pursuance to the remand by the revisional authority vide order dated 04.05.2004.

7. In order to avoid further complications, let the petitioner through his representative appear in the office of the Mining Engineer on 23.08.2024 at 11 AM for decision in pursuance to the remand.



8. The writ petition is allowed.

(AVNEESH JHINGAN),J

Chandan/Riya/80

Whether Reportable: **Yes**

