

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

S.B. Civil Writ Petition No. 6547/2020

M/s Sindh Bricks Industries, Through Partner Pushpa Devi, W/o
Late Shri Veeru Mal Rodha, R/o Anandnagar Colony, Khertal,
Tehsil Kishangarhbas, District Alwar.

-----Petitioner

Versus

State Of Rajasthan, Through Sub-Registrar, Khertal Tehsil
Kishangarhbas District Alwar

-----Respondent

For Petitioner(s) : Mr. Vaibhav Bhargava, Adv. (Through
Video Conferencing)

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Order

07/09/2020

Learned counsel for the petitioner submitted that the petitioner had executed a lease deed on 8th December, 2016 for excavating sand for making bricks and tenure of lease was one year.

Learned counsel submitted that the lease deed was presented before Sub-Registrar, Khertal for registration and necessary registration charges, stamp-duty etc. was paid by the petitioner.

Learned counsel submitted that in response to a notice issued under Sections 51 and 51(2) of the Rajasthan Stamp Act, 1998 (in short 'the Act of 1998') to the petitioner, reply was filed to the said notice and it was requested that stamp duty and registration charges were wrongly calculated, as the land was not

sold to the petitioner and the same was given to the petitioner on lease for one year. Learned counsel submitted that the document dated 13th December, 2016 was not conveyance and there was no transfer of title as well.

Learned counsel submitted that the Collector (Stamp) II, Alwar by impugned order dated 1st August, 2019 without application of mind, has found that the petitioner is liable to pay the amount, as the same is treated to be conveyance as per the notification dated 9th March, 2015 and rates of land for mining purpose by way of lease, has been made applicable.

Learned counsel submitted that in normal course, the petitioner has a remedy of filing revision petition under Section 65 of the Act of 1998, however, considering the issue involved and there will be no disputed questions of facts involved in the present writ petition and further requirement of depositing 25% of recoverable amount, the petitioner is constrained to approach this Court.

Learned counsel further submitted that the Tax Board, Ajmer in similar circumstances has accepted Revision Petition Nos. 862/2018 and 863/2018 and has found that the lease deed, which is executed, cannot be treated as conveyance and the stamp duty cannot be imposed in a mechanical manner.

Learned counsel submitted that huge amount has been ordered to be recovered from the petitioner on a wrong interpretation of the order dated 9th March, 2015.

Issue notice of the writ petition as well as stay application to the respondents, returnable on 12th October, 2020.

Notices be given 'dasti', if prayed.

Till the next date, the respondents are restrained to take any coercive measure against the petitioner, in pursuance of the impugned order dt. 1st August, 2019.

(ASHOK KUMAR GAUR),J

Monika/Parul/24

