

(2002) 09 AHC CK 0223
In the Allahabad High Court
Case No : C.M.W.P. No. 41079 of 2002

Hakim Ji Brick Industries

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 25-09-2002

Acts Referred:

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 4

Citation : (2002) 5 AWC 3713

Hon'ble Judges : Rakesh Tiwari, J;M. Katju, J

Bench : Division Bench

Advocate : S.K. Gaur, for the Appellant;

Final Decision : Dismissed

Judgement

1. The Petitioner is challenging demand of royalty vide notice dated 12.7.2002, Annexure-1 to the petition. The royalty is being charged under the U.P. Minor Minerals (Concession) Rules, 1963.
2. Learned Counsel for the Petitioner has submitted that the Petitioner is excavating earth from his own bhumidhari land and hence, no royalty can be charged. He has relied on the Supreme Court decision in The Quarry Owners Association Vs. The State of Bihar and Others,
3. The submission of the learned Counsel for the Petitioner proceeds on a misconception. Bhumidhari right is not proprietary right but tenancy right. No doubt, bhumidhari right is a very high kind of tenancy right because it is heritable and transferable, nevertheless it is not proprietary right. The proprietor of the land is the State in whom the land vests u/s 4 of the U.P. Zamindari Abolition and Land Reforms Act. Thus, there is no force in this writ petition. The writ petition is dismissed.