

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MARCH, 2026



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 13044 OF 2020 (GM-MM-S)

BETWEEN:

1. SRI S.T. PRASAD
S/O S.L. THIMMAIAH
AGED ABOUT 62 YEARS
R/AT KIRAN, NO.11
1ST CROSS, CHANGAMARAJU LAYOUT
(C.R. LAYOUT), J.P. NAGAR
BENGALURU - 560 078

...PETITIONER

(BY SRI S.N. ASWATHANARAYANA, SENIOR ADVOCATE FOR
SRI S.A. SUDHINDRA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY
DEPARTMENT OF MINES AND GEOLOGY
M.S. BUILDING
BENGALURU - 560 001
2. THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN
RACE COURSE ROAD
BENGALURU - 560 001

3. THE JOINT DIRECTOR AND
REVISIONAL AUTHORITY OF
SOUTH ZONE
MYSORE - 570 022
4. THE SENIOR GEOLOGIST
DEPARTMENT OF MINES AND GEOLOGY
D.C. OFFICE COMPLEX
CHIKKABALLAPURA - 562 101
5. THE DEPUTY CONSERVATOR OF FOREST
CHIKKABALLAPURA DIVISION
CHIKKABALLAPURA - 562 101

...RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ENDORSEMENT DATED 23.10.2017 VIDE No.DMG/SGC/SQL.A701/2017-18/3510-3811, ANNEXURE-X AND THE ORDER PASSED BY THE 3RD RESPONDENT REVISIONAL AUTHORITY DISMISSING THE REVISION PETITION R.P.26/2019-2020 DATED 13.08.2020 VIDE: No.DMG:JD: Davamai: Revision:2020-21/840 ANNEXURE-Zd & ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, ORDER WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

INTRODUCTION

1. The petitioner has filed the present petition impugning an endorsement dated 23.10.2017 passed by respondent No.4 [**the Competent Authority**], holding that the petitioner's application for quarry lease was barred in terms of Rule 8-B(1) of the Karnataka Minor Mineral Concession Rules, 1994 [**the KMMC Rules**] as amended with effect from 12.08.2016. Additionally, the petitioner impugns an order dated 13.08.2020 passed by respondent No.3 [**Revisional Authority**], rejecting the petitioner's revision petition filed under Rule 53 of the KMMC Rules. The petitioner prays that the Competent Authority be directed to execute a quarry lease pursuant to the notification dated 08.04.2011, sanctioning the grant of a quarry lease for mining building stones in respect of an area to the extent of 15 acres of revenue land falling in Survey No.192, E. Thimmasandra Village, Shidlaghatta Taluk, Chikkaballapura District, for a period of five years.

2. The respondent authorities propose to process the petitioner's application for the grant of a quarry lease for 10 acres of land. In terms of Rule 15 of the KMMC Rules as currently in force, no person can acquire a lease or license exceeding 50 acres for the purpose of mineral-based industries and 10 acres in case of other purposes. Thus, they contend that a quarry lease for quarrying building stones cannot be executed for an area exceeding 10 acres. The petitioner claims that since the notification for the grant of lease was issued on 08.04.2011, the KMMC Rules as then in force are applicable. In terms of Rule 25(1) of the KMMC Rules as applicable at the material time, the maximum area for which a quarry lease for mining a non-specified minor mineral was 25 acres. The petitioner claims that, since a quarry lease for an area of 15 acres was granted, the petitioner is entitled to a lease covering 15 acres in conformity with the grant.

3. The petitioner has raised several issues in this petition. However, given that the respondent authorities are agreeable to process the execution of a quarry lease to the extent of 10 acres, the controversy is confined to the question of whether the petitioner is entitled to a quarry lease over an area exceeding 10 acres, notwithstanding that Rule 15 of the KMMC Rules as in force restricts

the maximum area of a quarry lease in respect of a non-specified minor mineral to 10 acres.

The Context

4. The dispute, as noted above, arises in the following context.

5. The petitioner filed an application for the grant of a quarry lease for building stones in respect of land falling in Survey No.192, E. Thimmasandra Village, Shidlaghatta Taluk, Chikkaballapura District, on 29.12.2006. Pursuant to the said application, the Senior Geologist, Kolar, sought information from the concerned Tahsildar as required under Rule 8(5)(ii) of the KMMC Rules. Pursuant to the said communication, the concerned Tahsildar conducted a spot inspection and furnished a report dated 23.02.2007 to the effect that (i) the area in question is a Government *Kharab Gutta*, and not a forest; (ii) it is not granted to any person; and (iii) it is not reserved for public. Thus, the Tahsildar essentially conveyed that it had no objection to the grant of a quarry lease for the subject land.

6. On the basis of the said report, the concerned Assistant Commissioner submitted a report dated 26.10.2010 confirming the same. After receiving the said 'No objection', the Competent Authority issued a notification dated 08.04.2011 under Rule 27 of

the Rules, sanctioning the grant of a quarry lease for building stones, for a term of 5 years in respect of an area to the extent of 15 acres falling in Sy.No.192 of E. Thimmasandra Village, Shidlaghatta Taluk, Chikkaballapura District.

7. Immediately thereafter, the Competent Authority sought the surveyor's assistance for a joint survey. On 27.04.2011, the petitioner paid the royalty and the security deposit amounting to ₹1,51,000/-. The petitioner also requested that a survey of the notified area be conducted and that the lease be executed. Thereafter, a joint survey was conducted, and the land surveyor furnished a joint survey boundary demarcation report along with the sketch. However, the quarry lease was not executed because the petitioner did not take the necessary steps to execute and register the lease. Consequently, on 20.10.2011, the Competent Authority issued a communication rejecting the petitioner's application for quarry lease and cancelling the notification dated 08.04.2011 issued under Rule 27 of the Rules.

8. Aggrieved by the rejection of his application, the petitioner filed a revision petition [Revision Petition No.157/2012/3493] under Rule 53 of the Rules before the Revisional Authority. In the context

of the revision application, the Revisional Authority sought information regarding the subject land, including (i) whether the stone quarry lease is forest land or reserved for other purposes; (ii) whether there were any dues in case of the lease or any other lease; (iii) whether there were any objections with regard to the lease area; (iv) any information whether this region is notified under Section 8A and Section 8B; and (v) whether there were any pending cases.

9. Before the Revisional Authority, the petitioner explained that the delay in executing the lease was due to his ill health and requested that it be condoned. He also furnished a medical certificate. The Revisional Authority heard the petitioner on 11.01.2013 and passed an order on the same day, that is on 11.01.2013, allowing the petitioner's revision petition. It condoned the delay in the execution of the lease and set aside the Competent Authority's order dated 20.10.2011, cancelling the notification dated 08.04.2011 granting the lease. However, the Revisional Authority issued directions to obtain permission from the Department of Forest, Environment and Ecology, and to present the same before the District Task Force Committee in accordance with the

Government order dated 30.06.2011 and to initiate the process for the grant of a stone mining lease.

10. Pursuant to the said directions, the Competent Authority sent a letter seeking information from the revenue authorities in terms of Rule No.8(5)(ii) of the Rules. He also specified that if no information was received within a period of thirty days, steps would be initiated under Rule 8(6) of the KMMC Rules, assuming that the concerned Revenue Authorities had no objection to the grant of the quarry lease for the subject land. The Competent Authority also sent a communication dated 22.11.2013, once again seeking information from the Forest Department regarding the petitioner's application. The Deputy Conservator of Forests, by a letter dated 20.12.2013, instructed the Range Officer to personally inspect the subject land with respect to the following aspects:

"i. Whether the proposed place is a Forest region or pasture/kharab land or non-forest region or included in the list of deemed forest?

ii. What is the distance to the proposed region from the forest region? Which is this region and whether there are any other plants-trees in the said region?

iii. Whether plants-trees are grown surrounding the proposed region?

iv. Specifically identify the schools and hospitals, if any existing surrounding the proposed place along

with copy of the RTC of the said place and the proposed region and submit in the topo-sheet?

v. Also verify and submit report as to whether the proposed region is situated under 'C' and 'D' land classified to the Forest Department by the Revenue Department.

vi. You along with the Taluk Surveyor shall specifically identify the proposed region in the village map and also by preparing separate sketch and submit it with your signature and seal and also that of the said Taluk Surveyor and the Assistant Conservator of Forest."

11. The Range Officer furnished a report dated 23.06.2014 stating that a spot inspection was conducted, along with GPS readings provided in the sketch, which included a portion of a tank. He reported that another department had planted *Honge* saplings and also stones were laid around the hills marked as protected forests. However, no records were available in the office. Therefore, a communication was addressed to the Deputy Conservator of Forest, Planning, Mysore, in this regard. The Range Officer unequivocally stated that the region could not be granted for a stone quarrying lease.

12. Thereafter, no steps were taken to execute the quarry lease. The petitioner acknowledges that he became aware of the Range Officer's report in June 2014. However, also did not take any immediate steps to pursue the execution of the lease.

13. On 23.10.2017, the Competent Authority issued an endorsement rejecting the petitioner's application for a lease on the ground that the applicant was not eligible under Rule 8(5)(d-i) of the KMMC Rules, as amended with effect from 12.08.2016. According to the Competent Authority, since all reports regarding the applications had not been received prior to 12.08.2016, the petitioner's application for the grant of a lease had lapsed.

14. The petitioner filed an application under the Right to Information Act, 2005, seeking information regarding the subject land. He claimed he also visited the spot and found that no stones had been used to demarcate the forest's boundaries. In response to his application for information, the petitioner received a communication dated 14.02.2019 informing him that the records do not reflect Survey No. 192, E. Thimmasandra Village, as forest land.

15. The petitioner claims that he did not receive the 23.10.2017 endorsement rejecting his application as lapsed.

16. On 25.06.2019, the petitioner filed a revision petition under Rule 53 of the KMMC Rules impugning the endorsement dated 23.10.2017.

17. During the course of the said proceedings, the Revisional Authority issued a memo dated 03.07.2019 seeking clarification in respect of the report furnished by the Range Officer and the information communicated to the petitioner in response to his application under the Right to Information Act, 2005 regarding the question whether the land falling under Sy. No.192 was a forest land.

18. In response, the Competent Authority also sent a letter on 08.07.2019 to the Deputy Conservator of Forests, Chikkaballapur once again seeking the same information as was sought for earlier, pursuant to the letter dated 01.03.2013, whereby the petitioner's revision petition against the order cancelling the notification for grant was allowed.

19. The Forest officials also conducted a spot inspection of the land on 21.09.2019.

20. The Forest Department issued a letter dated 04.12.2019 confirming that the proposed area was not included in the deemed forest list and did not fall under C & D lands. It was also reported that the subject land was at a distance of 405 metres from T.K. Betta State Forest Region. The Deputy Conservator of Forests

reported that further steps can be taken, subject to the recent orders passed by the National Green Tribunal, and initiation of steps to increase the plantation in the subject area.

21. The petitioner's revision petition challenging the endorsement dated 23.10.2017 by the Competent Authority was dismissed by an order dated 13.08.2020, which is impugned in the present petition.

22. The present petition was dismissed by an order dated 11.10.2023. The petitioner appealed the said order before the Supreme Court (Civil Appeal No. 11918/2025), which was allowed by virtue of the order dated 17.09.2025. The Supreme Court remanded the matter to this Court for consideration afresh, in respect of all aspects, and in particular, the effect of Rule 8(b)(i) of the Rules as amended.

Reasons and Conclusions

23. It is the petitioner's case that he has a vested rights in a quarry lease to an extent of 15 acres in Sy.No.192, E.Thimmasandra Village, Shidlaghatta Taluk, Chikkaballapura District. The petitioner contends that he acquired the lease under the notification dated 08.04.2011 issued under Rule 27 of the KMMC Rules, and the execution of the lease was a mere formality.

Therefore, according to him, the terms of the grant could not be altered. The petitioner argues that, since the Competent Authority's order dated 20.10.2011, cancelling the grant, was set aside by the Revisional Authority, the said grant continues to subsist and is merely required to be implemented.

24. The learned Additional Government Advocate countered the said submissions. She contends that since the lease was not executed in favour of the petitioner, the petitioner cannot claim any right for execution of the lease deed contrary to the KMMC Rules.

25. At the outset, it would be relevant to refer to the KMMC Rules as applicable at the relevant time.

26. Rule 8 of the Rules as was in force at the material time read as under:

"8. Restrictions on grant or renewal of quarrying Lease or licence.-

(1) No quarrying lease or licence shall be granted to any person other than an Indian Citizen except with the prior approval of the Central Government.

[(2) Quarrying lease may be granted in any forest land by the State Government with the prior approval of the Central Government under the Forest (Conservation) Act, 1980.]

(3) No quarrying lease shall be granted in respect of any land notified by the State Government as reserved for use by the State or Central Government, any body or corporation owned or

controlled by the State or Central Government or for any other public or special purposes.

(4) No quarrying lease or licence or renewal shall be granted in respect of any minor mineral to any person if such person has contravened the provisions of the Act or the rules made thereunder.

(5) The Competent Authority shall before granting or renewing a lease, consult.-
in case of specified minor minerals, the Deputy Commissioner of the District concerned; and
in the case of non-specified minor minerals, the Tahsildar of the taluk concerned.

(6) The Deputy Commissioner or the Tahsildar, as the case may be, shall send his recommendation within 2[ninety days] from the date of receipt of communication from the Competent Authority:

Provided that if, no recommendation is received from the Deputy Commissioner or the Tahsildar, as the case may be, within ninety days from the date of receipt of communication from the Competent Authority, recommendation for grant or renewal of a quarrying lease shall be deemed to have been made by him."

27. As it is apparent from the above, the Competent Authority was required to consult with the Tahsildar of the concerned taluk, to obtain his no objection [**NOC**]. Additionally, the NOC from the Deputy Conservator of Forests was also required. Undisputedly, it was necessary for the Revenue Officials to furnish a joint inspection report.

28. Rule 27 of the Rules as was in force at the material time contained provisions regarding the issuance of a notification for the grant of a lease. The said rule is set out below:

"27. Notification of grant of lease.- The Competent Authority may, having regard to the provisions of these rules and, after making such enquiries as it deems fit, grant or refuse to grant or renew a quarrying lease. Where a lease is granted or renewed, the Competent Authority shall issue a notification in Form-GL:

Provided that the competent authority shall not grant a quarry lease in respect of any area which is notified under Rule 8-B after the date of receipt of applications but before the date of consideration of grant, and all such applications for grant made in respect of such area shall be liable to be returned to the applicants and security deposit and fee paid, if any, be refunded."

29. In the present case, the Competent Authority had received necessary NOCs from the Revenue and Forest Departments. Additionally, a joint survey was also conducted and a report regarding the same had been received. Accordingly, a notification dated 08.04.2011 was issued under Rule 27 of the KMMC Rules.

30. Rule 30 of the KMMC Rules as was in force at the material time, mandated that the grantee execute the quarry lease in the prescribed form within the stipulated period of three months from the date of the notification under Rule 27 of the KMMC Rules. If the grantee failed to execute the lease/licence within the said period,

the Competent Authority could extend the time for its execution for a further period of three months. However, if the lease was not executed within the extended period, the Competent Authority was required to communicate the cancellation of the grant made under Rule 27 of the Rules. It is relevant to extract Rule 30 of the KMMC Rules as was in force prior to 12.08.2016. The same is reproduced below:

"30. Execution of lease deed.—(1) When a quarrying lease is granted or renewed under Rule 27, a lease deed shall be got executed by the grantee in Form-E within three months of the order granting or renewing lease, [or within such further period not exceeding three months as the Competent Authority may allow in this behalf] failing which the Competent Authority shall communicate to the grantee the cancellation of the order made under Rule 27.

(2) Before executing lease deed the grantee shall pay in advance fifty percent of the dead rent payable during the first year.

(3) The Competent Authority shall forward to the Director and concerned Tahsildar one copy of the quarrying lease deed as soon as the lease deed is executed."

31. In terms of Rule 30(2) of the Rules, the grantee was required to pay an advance of 50% of the dead rent payable during the first year.

32. It is also relevant to refer to Rule 31 of the KMMC Rules as was in force at the material time. The same is reproduced below:

"31. Conditions of quarrying lease.- (1) The provisions of Rules 6, 7, 8, 19, [19-A, 20], and Rules 35 to 41 shall mutatis mutandis apply to quarry leases granted or renewed under this chapter.

(2) A quarrying lease deed may contain such other conditions as the Competent Authority may deem necessary in the interest of maintaining the local environment, habitat of surrounding area leased and in the interest of conservation of minerals."

33. It is important to note that Rule 6(1) of the Rules specifies that if the holder of a quarrying lease fails to undertake quarrying operations for a period of one year, after the date of execution of the lease or the date of grant of licence or, having commenced the quarrying operation, discontinues the same for a period of one year, the quarrying lease or the licence would lapse on the last date of the said period of one year.

34. The reference to Rule 6(1) is relevant in the context of the petitioner's contention that he had acquired the quarry lease by virtue of the order of grant dated 08.04.2011, and therefore, his rights had crystallised. It is also material to note that under Rule 7 of the KMMC Rules, the Competent Authority is entitled to provide additional conditions as it may deem necessary.

35. Rule 29 of the KMMC Rules, as in force prior to 12.08.2016, specified that after the grant or renewal of a lease is notified under Rule 27 of the Rules, the Competent Authority would arrange a survey and demarcation of the area notified at the expense of the grantee. Rule 29 is set out below:

"29. Survey and demarcation of the area granted.- After the grant or renewal of a lease is notified under Rule 27, the Competent Authority shall arrange for survey and demarcation of the area notified at the expense of the grantee, which shall be [at the rate of rupees five hundred per acre] of land granted for quarrying and the amount towards such expenses shall be paid by the grantee within one month from the date of receipt of the notification issued under Rule 27.]"

36. In the present case, the joint survey was also conducted and the boundary demarcation report was furnished by the land surveyor along with a sketch. It is clear from the above that the petitioner had to pay the dead rent if not already paid, and get the lease deed executed. However, the petitioner failed to have the lease executed within the specified three-month period. Further, the three-month period of delay, which could be condoned, also expired. Consequently, on 20.10.2011, the Competent Authority communicated the cancellation of the grant notification dated 08.04.2011. The matter would have ended there if the petitioner had

not preferred a revision petition before the Revisional Authority. The petitioner acknowledged that there was a delay on his part in executing the lease. However, he explained that the delay had occurred due to his ill health and requested that it be condoned.

37. The Revisional Authority allowed the revision petition by an order dated 11.01.2013. The Revisional Authority set aside the communication cancelling the grant notification.

38. Plainly, the import of the said order is that the grant of the lease in favour of the petitioner was restored, and therefore, the lease was required to be executed. However, a plain reading of the said order of the Revisional Authority informs us that the Revisional Authority also issued certain directions, including a direction to the Competent Authority to obtain permission from the Department of Forest, Environment and Ecology. The Competent Authority was also directed to place the report before the District Task Force Committee. The Revisional Authority further directed the initiation of action for the grant of a stone mining lease without violating Rule 6(2) of the Rules.

39. It is material to note that Rule 6(2) of the KMMC Rules prohibits carrying on of quarrying operations within a specified

distance of a railway line, reservoir, tank bund, canal or other public works and public structures or any public road or building.

40. We also find no credible explanation for the delay that occurred after the Revisional Authority had passed the order dated 11.01.2013. However, it is apparent that the procedure as prescribed under Rule 8 of the KMMC Rules was recommenced.

41. The Competent Authority sent a letter seeking information from the revenue authorities in terms of Rule 8(5)(ii) of the KMMC Rules. As noted above, the Revisional Authority had directed the Competent Authority to also secure information from the Department of Forest, Environment and Ecology and to place the report before the District Task Force Committee.

42. If the Revisional Authority's order is construed as restoring the notification granting the lease, the directions for initiation of the grant would be inconsistent. Whilst the Revisional Authority had set aside the letter communicating the cancellation of the grant in favour of the petitioner, it had also directed the Competent Authority to secure permission from the Forest Department.

43. The communication dated 01.03.2013 issued by the Competent Authority mentions that the said information is in accordance with Rule 8(5)(ii) of the Rules. As the opening words of Rule 8 of the KMMC Rules expressly indicate, consultation with the concerned authority is required prior to the grant. This stage was crossed prior to the Competent Authority issuing the notification dated 08.04.2011 sanctioning the grant of lease in favour of the petitioner.

44. It is also material to note that the petitioner did not raise any objection to the procedure adopted. The petitioner was fully aware that the Competent Authority had commenced the process of fresh consultation under Rule 8 of the KMMC Rules but, he did not raise any objection regarding the same. It is earnestly contended by the learned counsel for the petitioner that the Competent Authority was not required to wait for the NOCs or reports from the Revenue or Forest authorities, and was required to proceed on the assumption that NOCs were granted in terms of Rule 8(6) of the KMMC Rules. This contention also underscores the fact that the petitioner accepted that his application for a quarry lease was being processed virtually from a stage anterior to the notification of the grant.

45. The Range Forest Officer, Shidlaghatta furnished a report objecting to the grant of a quarry lease in respect of the subject land. He reported that certain stones were laid surrounding the hills as a 'protected forest', and the region cannot be considered for a stone quarry lease. Additionally, he reported that the spot inspection with GPS readings provided in the said sketch marks the inner portion of the tank.

46. The petitioner claims that on enquiry with the Forest Department, he became aware of the letter dated 23.06.2014. The petitioner took no immediate steps at the material time. There was complete inaction on the part of the petitioner for almost five years. The respondents also did not take any proactive steps.

47. Whilst there was no order cancelling the grant notification that was resurrected, no steps were taken pursuant to the said grant. As noted above, although the Revisional Authority had set aside the order dated 20.10.2011, cancelling the notification, it had not issued any directions for the execution of the lease. The petitioner also took no steps for availing the remedies at that stage. In view of the above, the Revisional Authority's order dated 11.01.2013 cannot be readily construed as reviving the grant. The other directions issued

by the Revisional Authority, the subsequent events, and the petitioner's conduct of virtually accepting the recommencement process under Rule 8 of the KMMC Rules, compel us to construe the Revisional Authority's order as directing the reprocessing of the petitioner's application for the grant of the quarry lease.

48. As noted above, the petitioner applied under the RTI Act [Annexure-W], seeking information on whether the area falling within Survey No. 192 and the surrounding areas were forest or a deemed forest. The Forest Department responded to the application by a communication dated 14.02.2019, based on the available records and confirmed that "the area is not a forest region".

49. In the meanwhile, Rule 8 was amended by insertion of Sub-Rule (1-A) with effect from 16.12.2013, which reads as under:

"8. Restrictions on grant or renewal of quarrying Lease or licence. - (1) *****

[(1-A) No quarry lease/licence/working permission shall be granted or renewed.-

(i) in contravention of environment impact assessment notification dated 14-9-2006 issued by the Ministry of Environment and Forest, Government of India, as amended from time to time;

(ii) without approved quarry plan or simplified quarrying plan; and

(iii) without obtaining environmental clearance from concerned authorities.]"

50. The said Sub-rule prohibits the grant of a quarry lease without an approved quarry plan.

51. The Rules were further amended by the Karnataka Minor Mineral Concession (Amendment) Rules, 2016 [**Rules, 2016**], which came into effect on 12.08.2016. Rule 8-B(1) of the KMMC Rules was substituted with effect from 12.08.2016. The relevant extract of Rule 8-B of the Rules, 2016, as substituted, is set out below:

"[8-B. **Status of applications received.**- (1) All applications received and pending for grant of lease or license prior to the date of commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016, shall become ineligible including the applications received for grant of mining leases of the minerals that are now classified as minor mineral.

(2) Notwithstanding anything contained in sub-rule (1), the following shall remain eligible on and from the commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016, namely.-

(a) Applications received upon the notification issued under rule 8B existed before the Karnataka Minor Mineral Concession (Amendment) Rules, 2016.

(b) Where the Committee that existed under the provisions of Rule 11 or District Task Force Committee has recommended for grant of a quarrying lease or license for grant of mining lease, before the commencement of the Karnataka

Minor Mineral Concession (Amendment) Rules, 2016.

(c) Where in the case of minerals now re-classified as minor mineral by the Central Government by Notification No. S.O. 423(E), dated 10-2-2015, no objection certificates from revenue and forest departments and the approved mining plan from the Indian Bureau of Mines (IBM) have been received before commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016.

(d) Applications received and pending for grant of lease or licence in case of specified minor minerals before [commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016] and for which No Objection Certificate (NOC) have been received in the office of Directorate of Mines and Geology from the Deputy Conservator of Forest for all Lands, Deputy Commissioner in case of Kharab lands, Assistant Commissioner (Revenue) and Deputy Director or Senior Geologist (Joint inspection report) in case of Gomala lands in accordance with the Circular No. RD 72 LGP 98, dated 24-2-1999 before commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016 and shall be considered and disposed by the State Government subject to obtaining No Objection Certificate (NOC) from the Deputy Commissioner of the concerned District before grant;]

[(d-1) Applications received and pending for grant of lease or licence in the case of non-specified Minor Minerals before [commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016] and for which No Objection Certificates (NOCs) have been received in the Department of Mines and Geology of the concerned District Office, from the Deputy Conservator of Forest for all lands, Tahsildar in case of Karab lands, Assistant Commissioner and Deputy Director or Senior Geologist (Joint inspection report), in the case of Gomala lands, before commencement of the Karnataka Minor

Mineral Concession (Amendment) Rules, 2016, and shall be [processed by the Competent Authority] as under the existing rules before commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016.

(e) These applications shall be considered for grant of quarrying lease or license, or otherwise as per the provisions that existed before the Karnataka Minor Mineral Concession (Amendment) Rules, 2016 subject to fulfillment of the conditions specified for the same, [with the approval of the State Government]:

52. The petitioner's application for the grant of a lease was rejected by the Competent Authority in terms of Rule 8-B(2)(d-1) of the KMMC Rules (as amended w.e.f. 12.08.2016). This was on the premise that the necessary NOCs and reports were not available prior to 12.08.2016.

53. The petitioner's challenge to the Competent Authority's endorsement dated 23.10.2017, holding that the petitioner's application for the grant of a lease had lapsed, is premised on the basis that all necessary permissions were available prior to 12.08.2016; therefore, the petitioner's application should have been processed. He contended that since the final reports from the Forest Department and the Revenue Department were not issued after the order dated 11.01.2013 was passed by the Revisional Authority allowing the petitioner's revision, it was necessary for the

Competent Authority to have proceeded on the footing that there was deemed consent from the concerned authorities as provided in Rule 8(6) of the KMMC Rules.

54. In our view, there is an element of inconsistency in the arguments advanced on behalf of the petitioner. The petitioner claims that in terms of the notification of grant dated 08.04.2011, the lease subsists in favour of the petitioner. However, the petitioner also argues that the Competent Authority was required to proceed on the basis of deemed consent under Rule 8(6) of the KMMC Rules, after the Revisional Authority had allowed the revision by an order dated 11.01.2013.

55. As noted at the outset, there is no cavil that the concerned authority will process the petitioner's application for the grant of a quarrying lease. The issue is confined to the area for which the lease is to be processed.

56. In the given facts, we are unable to accept the petitioner's contention that a lease deed was required to be executed in respect of 15 acres of land in terms of the grant order. This contention is premised on the basis that the original grant order survives, and a lease deed is required to be executed in favour of the petitioner in

terms of the said grant order. However, the scheme of the KMMC Rules does not contemplate execution of the lease several years after the grant of a lease is notified under Rule 27 of the KMMC Rules. The grantee has a short window of a maximum of six months to execute the lease deed.

57. Although the Revisional Authority, by an order dated 11.01.2013, had condoned the delay in executing the lease, the facts indicate that neither the concerned authorities nor the petitioner had taken any timely steps to ensure its execution. Undisputedly, failure to execute the lease within the stipulated period would result in its cancellation. Under Rule 30(1) of the KMMC Rules, as in force prior to 12.08.2016, the Competent Authority was required to communicate its cancellation.

58. We also find it difficult to accept that execution of a lease is merely a formality, and the notification under Rule 27 of the KMMC Rules must be construed as demising the notified area. Undisputedly, the grantee does not immediately come into possession of the lease premises upon the sanction of the grant of the lease in his favour. It is also relevant to refer to Rule 7 of the KMMC Rules, which provides that a quarrying lease may also

include other conditions that a Competent Authority may consider necessary. Rule 31 of the KMMC Rules, as in force at the material time, expressly provided that the provisions of Rule 7 would apply *mutatis mutandis* to a quarry lease granted under Chapter IV of the KMMC Rules, which contained provisions for the grant of a quarry lease for non-specified minor minerals.

59. In the absence of execution of a quarry lease, the lease remains incomplete. In **S.A. Rasheed v Director of Mines and Geology & Anr.**¹, the Supreme Court had, in the context of Rule 9 of the Karnataka Minor Minerals Concession Rules 1969 – which contained provisions similar to Rule 27 and Rule 30(1) of the KMMC Rules – observed as under:

“..the grant of lease under Rule 9 is complete and takes effect only when a lease deed is executed within the period prescribed and in case the lease deed is not so executed, the grant under sub-rule (1) stands revoked..”

60. The scheme of KMMC Rules does not contemplate a grant of lease subsisting for an indefinite period of time if the lease is not executed. It is mandatory for the grantee to execute the lease within six months; failing which, the grant would stand revoked. In the present case, the communication cancelling the grant was set aside

¹ 1995 (4) SCC 584

by the Revisional Authority's order dated 11.01.2013 by accepting the petitioner's explanation for the delay. It would follow that the lease would have to be executed immediately. Clearly, given the mandatory provisions of Rule 30 of the KMMC Rules then in existence, the time to execute the lease deed could not be set at large.

61. As noted above, the petitioner had also proceeded on the basis that his application for a quarry lease was being processed after the Revisional Authority's order dated 11.01.2013. There is no material on record indicating that the petitioner had approached the authorities for the execution of the lease deed or insisted on the immediate completion of the remaining formalities after the Revisional Order dated 11.01.2013.

62. In the given facts, it is difficult to accept that notwithstanding the extraordinary delay in execution of the lease deed, the grant continued to survive.

63. The decision of the Supreme Court in case of **Gujarat Pottery Works v. B.P.Sood**² – which was cited by the learned counsel for the petitioner in support of his contention that the lease

² 1967 SCR 695

subsisted in favour of the petitioner from 08.04.2011 – may not be of much assistance to the petitioner. In the said case, the Supreme Court has considered the question whether the mining lease was an 'existing lease' under Rule 2(c) of the Mining Leases (Modification of Terms) Rules, 1956. In that case the possession of the land was handed over to the lessee on a "lease to excavate white clay". The agreement between the lessor and the lessee also stipulated that the lessor would execute a proper lease and the lessee would have to bear the expense. The agreement between the lessor and the lessee was entered into on 02.12.1939. However, the mining lease was not executed immediately. It was executed on 03.11.1951 pursuant to a decree for specific performance. In that context, the Court held that the lease was an existing lease. The lessee had full control over the subject property, and in terms of the agreement, the petitioner was authorised to excavate white clay.

64. However, in the present case, the possession of the subject land was not handed over to the petitioner. The petitioner did not acquire any control over the land by virtue of the grant order. Plainly, the petitioner could not carry out any mining activity prior to the grant of a lease.

65. It is also important to note that it is common ground that the term for which the lease is granted would commence from the date of execution of the lease and not from the date on which the order sanctioning the grant is notified. The first proviso to Rule 18(1) of the KMMC Rules, as amended with effect from 12.08.2016, expressly provides that the date of commencement of the lease will be the date on which the lease is executed. The said proviso is set out below:

"Provided that the date of commencement of the period for which quarry lease or quarry license or prospecting license or composite license is granted shall be the date on which the deed is duly executed."

66. The execution of the lease thus cannot be construed as a mere formality in respect of a subsisting lease.

67. In **Pallava Granite (India) Pvt. Ltd. v. Union of India and others**³, the Supreme Court examined the question whether the order issued by the Government of Andhra Pradesh was an order granting the lease. In that case, the Government Order provided for leasing out land to the extent of 15 acres each in favour of four firms on the terms and conditions as specified in another Government

³ 2007 15 SCC 30

Order, except that the term of the lease would be a period of 10 years. The lessee was to pay a sum of ₹600 per acre for the first five years and for ₹900 per acre per annum for the remaining five years. The District Collector was directed also take steps in regard to the order. However, the State Government issued another order cancelling the Government Order for leasing land in favour of the four firms and passed a separate order for reserving certain areas for exploitation by the state-owned Corporation, Andhra Pradesh Municipal Development Corporation Limited. One of the principal contentions advanced before the Supreme Court was that the Government Order was a grant of lease in favour of four firms. Therefore, a lease in effect subsisted in their favour, and the lessee could not be deprived of the same without following the procedure prescribed in law.

68. The Supreme Court held that the Government Order was not a grant but at the highest, a decision of the State Government to execute a lease in favour of the petitioner for mining purposes. It was thus required to be construed as a decision to grant a lease.

69. In **Savita Rawat v. State of Madhya Pradesh and others**⁴, the Court held that unless an instrument is contemplated under the Mineral Concession Rules 7(A), 15 or 31 of the Mineral Concession Rules is not executed neither the possession nor mining lease is stated to have been granted.

70. There is yet another aspect to consider. If the contention that the notification dated 08.04.2011, sanctioning the grant of a lease, vests rights of a lessee in favour of the petitioner, it would follow that the vested right would also expire with the expiry of term of the lease. The grant was for a term of five (5) years, and the same would have expired on 07.04.2016. Obviously, there cannot be any order for executing a lease deed for the said term at this stage.

71. The petitioner's contention that the notification sanctioning grant of lease vested rights with the petitioner, is inchoate without specifying the rights. Since the notified grant of lease was for a term of five years, it is obvious that the petitioner cannot, after the term has expired, claim that a formal lease be executed to record the said grant.

⁴ 2016 SCC Online MP 542

72. KMMC Rules were substantially amended by the Karnataka Minor Mineral Concession (Amendment) Rules 2023, which came into force with effect from 17.03.2023. By virtue of Rule 8B of the KMMC Rules as amended with effect from 17.03.2023, the applications that had lapsed by virtue of Rule 8B as introduced with effect from 12.08.2016 became eligible. The impugned order dated 23.10.2017, holding that the petitioner's application for the quarry lease had lapsed, is thus inoperative. The revision petition preferred by the petitioner against the order dated 23.10.2017 was rejected by the Revisional Authority by an order dated 13.08.2020. In the given facts as narrated above, this order cannot be sustained.

73. Rule 25(1) of the KMMC Rules, as in force prior to 12.08.2016, provided that the maximum area of quarrying lease would not exceed 25 acres, except in cases of public undertakings and State Government departments.

74. Rule 25 of the KMMC Rules was deleted by the Karnataka Minor Mineral Concession (Amendment) Rules, 2016, with effect from 12.08.2016, and Rule 15 was amended to include the maximum area for which a quarrying lease could be granted, including in the case of a non-specified mining lease.

75. It is relevant to refer to Rule 15(1) of the KMMC Rules, the same is set out below:

"15. Maximum Area for which a quarrying lease or Prospecting license may be granted.- (1) No person shall acquire in respect of any minor mineral in the State.-

(a) One or more prospecting license s covering a total area of more than five hundred acres;

(b) One or more quarrying leases [x x x x x] covering a total area of more than fifty acres for the purpose of Mineral based industries and ten acres in case of other purposes; and

(c) Any quarrying lease or prospecting license in respect of any area which is not compact or contiguous:

Provided that if the State Government is of the opinion that in the interest of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire a prospecting license or quarry lease, in relation to any area which is not compact or contiguous.

(1-A) Nothing in sub-rule (1) shall apply to the Mining Lease or Licence already granted before commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016, and where applications are saved under clause (c) of sub-rule (2) of Rule 8-B for the minerals which are now classified as minor minerals by the Central Government vide Notification No. S.O. 423(E), dated 10-2-2015.

(2) Nothing in sub-rule (1) shall apply to State Government or Central Government Departments or undertakings and to Joint Sector Projects undertaken by the State Government or Central Government Departments or undertakings within the State or to cases covered under Rule 3-B.

(3) For the purpose of determining the total area referred to in sub-rule (1), the area held under a quarrying lease or composite license by a person as a member or partner of a company or corporation or firm or Hindu undivided family or a Co-operative Society shall be deducted from the area referred to in sub-rule (1) so that sum total of the area held by such person, under a quarry lease or prospecting cum quarrying lease, whether as such member or partner, or individually, may not, in any case, exceed the total area specified in sub-rule (1).”

76. In view of the statutory provision stipulating the maximum area for which a quarry lease can be granted, we are unable to accept that the lease deed can be executed for an area in excess of the ceiling area. Sub-rule (1A) to Rule 15 was introduced by a notification dated 16.11.2017 with effect from 18.11.2017. We have given our anxious thought on whether the petitioner would be entitled to the benefit of this Sub-rule. However, we find that he would not. This is principally because the said rule would be applicable only if the order dated 08.04.2011 sanctioning the grant was being proceeded with. As discussed above, the execution of the lease pursuant to the said grant was abandoned, and the petitioner's application was, in effect, reverted to a stage anterior to the order of the grant. The import of the Sub-rule is to preserve the grant pending execution of the lease, which, as stated hereinbefore,

was required to be executed within a six-month window at most. As noted above, the petitioner had not taken any proactive steps at that stage. There is no credible explanation for the petitioner's inaction from 11.01.2013 onward. It would militate against the legislative intent if the Sub-rule (1A) is extended to cases where the applicant has failed to take expeditious steps for execution of the lease.

77. It is important to note that the language of Rule 15(1) of the KMMC Rules; the opening sentence provides that “no person shall acquire in respect of any minor mineral in the State” one or more quarrying leases covering a total area of more than that specified in the said Rule. The Rule prohibits any person from acquiring a lease exceeding the specified maximum limit. The use of the wording ‘acquire’ would encompass the acquisition of rights on execution of a quarry lease. Since Rule 15(1) of the KMMC Rules prohibits such acquisition beyond an area of 10.00 acres, it is impermissible for a lease deed to be executed in favour of the petitioner for a lease in excess of the said area. This court cannot issue a writ in the nature of mandamus directing the respondent authorities to process the petitioner’s application or execute the quarry lease in violation of the KMMC Rules.

78. In view of the above, we consider it apposite to direct the competent authorities to take expeditious steps to execute the quarrying lease for an area of 10.00 acres after completing all necessary formalities.

79. The present petition is allowed in the aforesaid terms.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

SD/KPS/KMV