IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH 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.18008 OF 2007 (GM-MM-S)

BETWEEN:

1. M/S KATWA UDYOG LIMITED
A COMPANY REGISTERED UNDER
THE COMPANIES ACT
HAVING ITS REGISTERED OFFICE
JYOTI TOWER, 215/2, KARBHAR GALLI
6TH CROSS, NAZAR CAMP
M. VADGAON, BELGAUM - 590 005
REP. BY ITS VICE CHAIRMAN CUM DIRECTOR
SRI VENKATESH H. KATWA

...PETITIONER

(BY SRI GAUTAM S. BHARADWAJ, ADVOCATE)

AND:

Digitally signed by AMBIKA H B
Location: High Court of Karnataka

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
COMMERCE & INDUSTRIES DEPARTMENT
1ST FLOOR, VIKASA SOUDHA
BANGALORE - 560 001

2. COMMISSIONER AND DIRECTOR OF
THE DEPARTMENT OF MINES AND GEOLOGY
NO.49, RACE COURSE ROAD
KHANIJA BHAVAN, BANGALORE - 560 009

3. THE EXECUTIVE MEMBER &
CHIEF EXECUTIVE OFFICER
KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD

NRUPATHUNGA ROAD
BANGALORE - 560 001

4. M/S. JAYKAYCEM LIMITED
(SUBSIDIARY OF JK CEMENT LTD.)
A COMPANY REGISTERED UNDER
COMPANY ACT, HAVING THEIR OFFICE
AT 529/1, SAI NAGAR
MUDHOL DISTRICT
BAGALKOT
REPRESENTED BY
ITS MANAGING DIRECTOR

5. M/S ASHIRWAD MINERALS
LOKAPUR, MUDHOL TALUK
BIJAPUR DISTRICT
REPRESENTED BY ITS
MANAGING PARTNER
SRI H.G. SRIPADA
AGED ABOUT 47 YEARS
SRI H GURURAJA RAO

(IMPLEADED VIDE COURT ORDER DATED 08.04.2011)
…RESPONDENTS

(SMT. NILOUFER AKBAR, AGA FOR R-1 & 2
SRI I. GOPALAKRISHNA, ADVOCATE FOR R-3,
SRI D.L.N RAO, SENIOR ADVOCATE FOR
SRI ANIRUDH ANAND, ADVOCATE FOR R-4 AND
SRI GURURAJ JOSHI, ADVOCATE FOR R-5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RELEVANT RECORDS WHICH ULTIMATELY RESULTED IN ISSUING THE IMPUGNED COMMUNICATIONS No.IADB/326 V/4682/07-08 DATED 03.07.2007 AND THE COMMUNICATION No. CI 26 SPI 2007 DATED 03.10.2007/02.11.2007 VIDE ANNEXURES-A AND B & 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)

1. The petitioner [hereafter '**KUL**'] has filed the present petition, *inter alia,* impugning a communication dated 03.07.2007 addressed by the Chief Executive Officer of the Karnataka Industrial Areas Development Board [**KIADB**] to the State Government of Karnataka seeking orders for allotment of land measuring 305 acres and 7 guntas at Naganapur and Hebbal villages, Mudhol Taluk, Bagalkot district [**the subject land**] for allotment of land in favour of respondent No.4 [hereafter '**JKL'**], which had offered an amount of ₹3,02,000/- per acre for the subject land. KUL also seeks directions from the respondent authorities to complete the process of allotment of the subject land to it as the successor to the leasehold rights of M/S. Shree Quality Cements Limited [hereafter **SQCL**].

2. KUL seeks to impugn the allotment of the subject land in favour of JKL and claims that it is entitled to the said allotment as a successor of SQCL. Thus, the principal controversy to be

addressed in the present petition is whether KUL is entitled to claim the allotment of the subject land and whether the allotment of the same in favour of JKL is contrary to law.

3. The present petition was filed almost nineteen years ago, and some of the issues raised by KUL in the present petition have been concluded against KUL. Thus, the learned counsel appearing for the petitioner confined his arguments for challenging the allotment of the subject land in favour of JKL, essentially, on the ground that the same was in violation of Rule 59 of the Mineral Concession Rules, 1960 [**MC Rules**] read with Section 11 (4) of the Mines and Minerals (Development and Regulation) Act, 1957 [**MMDR Act**], as was in force prior to its amendment in the year 2015. KUL claims that it was impermissible for an area, which was previously held under a mining lease, to be made available for re-grant unless (i) the area is available for grant made under Rule 40 (2) of the MC Rules; and (ii) the availability of the area for grant is notified under the official gazette.

4. KUL further claims that the provisions of the Karnataka Industrial Areas Development Act, 1966 [**KIAD Act**] are

inapplicable in respect of the land which is held under a mining lease.

THE CONTEXT

5. The aforesaid dispute arises in the context of the facts as stated hereafter.

6. One Sri B. N. Shah had applied for a grant of a mining lease in respect of the subject land, and the State Government of Karnataka executed the mining lease [**ML No.1858**] for a period of twenty years from 23.12.1982 and registered on 02.02.1983. The State Government executed the said mining lease for the extraction of limestone, clay, dolomite, sandstone, and gypsum. It is the KUL's case that the said lease was held on behalf of SQCL.

7. KIADB published a Preliminary Notification on 07.06.1984 for the acquisition of the subject land. Thereafter, KIADB published the Final Notification under Section 28(4) of the KIAD Act on 24.10.1987 for acquiring the land to the total extent of 293.38 acres (167.32 acres in Hebbal village and 126.06 acres in Naganapura village). KIADB also acquired the area of 35 acres and 15 guntas [hereinafter also referred to as **the Factory Land**] under the provisions of the KIAD Act. Apparently, KIADB

proposed allotting the subject land to various persons for the purpose of establishing an industry, which was opposed by SQCL.

8. SQCL had filed a writ petition, being W.P. No. 4892/1999, in this Court, seeking to challenge the proposal of allotment in favour of the third parties and also seeking a direction for the delivery of the subject land to SQCL. The said petition was disposed of by an order dated 08.01.2002, directing KIADB to consider SQCL's representation.

9. KIADB allotted the Factory Land measuring 35.15 acres to SQCL. SQCL availed of financial assistance from IDBI Limited [**IDBI**] and other banks and financial institutions, and mortgaged the Factory Land to IDBI and other banks and financial institutions. SQCL defaulted in servicing the loans availed from IDBI and financial institutions.

10. In the circumstances, IDBI filed a suit before the Bombay High Court, Mumbai (O.A. No. 3251/1993). In the said proceedings, the Bombay High Court appointed a court receiver. Subsequently, the said proceedings were transferred to the Debts Recovery Tribunal, Pune [**DRT**] with the enactment of the

Recovery of Debts due to Banks and Financial Institutions, 1993. The said action was numbered as O.A No.182/2002. The learned DRT also appointed another receiver in respect of the assets of SQCL.

11. In the proceedings before the DRT, the assets of SQCL were put up for sale by a public auction on an 'as is where is' basis. The petitioner also participated in the bidding process of the assets of SQCL and was declared the highest bidder in the public auction held on 07.05.2007, and the Certificate of Sale of the property purchased by SQCL was issued. The said certificate described the property purchased by KUL as under:

> "SPECIFICATION OF PROPERTY
>
> Property admeasuring 35.15 acres Survey Nos. 15/4, 88/1A, 88/1B, 88/2, 88/3, 88/4, 5 & 6 situated at Village Nagnapur, Post Lokapur, Taluka Mudhol, District Bagalkot in the State of Kamataka, as per the MOU dated 27th July 1987 of which lease-hold rights have been renewed by the Karnataka Industrial Area Development Board for a period of two years from 25th May 2005 to 24th May 2007 as per their letter dated 1st December 2006, the properties comprising of lease-hold rights, along with structures standing thereon including plant & machinery etc. on "as is where is" basis, and more appropriately described in Schedule 'A, 'B' and 'C' of General Terms & Conditions of Auction"

12. KIADB executed a lease-cum-sale agreement for the Factory Land. Although the KUL had acquired the Factory Land only at a public auction held on 07.05.2007, it also claimed that it was entitled to a lease in respect of the subject land (305 acres 7 guntas). KUL sent several letters claiming that SQCL held the leasehold rights in respect of the subject land, representing that it was entitled to ML 1858 as a successor in interest to SQCL.

13. Following the said communications, the Department of Mines and Geology issued an order dated 05.09.2007, restoring ML No. 1858, the mining lease in respect of the subject land, in favour of KUL.

14. The said order was challenged by Sri Atul B. Shah, the son of Sri B.N. Shah (the lessee in ML1858), before the Revisional Authority (Central Government) by filing a revision application (Revision Application No. 13/07-2008/RC). KUL was also impleaded and contested the proceedings. It claimed that Sri Atul B. Shah had no *locus standi* to file the revision petition or challenge the order dated 05.09.2007. It was KUL's case that the application for the grant of the mining lease was made by SQCL

and the lease was granted to it. It claimed that Sri B. N. Shah was a Director of the SQCL and had executed the lease on its behalf.

15. The Revisional Authority faulted the order dated 05.09.2007, which restored the mining lease ML 1858 in favour of KUL on several grounds. First, that the area in question was a held area, and Rule 59 of the MC Rules applied. It was noted that the State Government had not accepted KUL as a legal successor in respect of ML 1858. Therefore, the same could not be restored in favour of KUL. Second, it noted that the State Government had accepted Atul Babulal Shah as legal heir under Rule 25A of the MC Rules, in respect of renewal of ML 1858. Third, the Central Government found that the certificate of sale of immovable property dated 30.05.2007 issued by the Registrar, DRT, Pune did not make any reference to ML 1858 or the subject land. Thus, KUL had not purchased the subject property. In the given facts, the State Government did not have the jurisdiction to accept the application for renewal of ML 1858 from KUL. The Revisional Authority held that the action of the State Government in issuing the order dated 05.09.2007 recommending renewal of the mining lease in favour of KUL was violative of Section 19 of the MMDR Act. In view of the above, the Revisional Authority

(Central Government) allowed the revision petition by an order dated 30.11.2010 and set aside the State Government's order recommending the restoration of ML 1858 in favour of KUL.

16. Aggrieved by the order dated 30.11.2010 passed by the Revisional Authority (Central Government), KUL filed a writ petition in this Court, being WP No. 9581/2011 (GM-MM-S). However, the said petition was dismissed by an order dated 31.03.2016. This Court found: (i) that ML 1858 was never the subject matter of sale before the DRT and the sale certificate was confined to confirmation of sale of Factory Land to the extent of 35 acres and 15 guntas; (ii) that KUL acquired no rights in the subject land; (iii) that KUL in the guise of sale certificate which did not pertain to ML 1858 or the subject land had addressed communications to various authorities to represent that it had purchased rights in respect of ML 1858. KUL's contention that ML1858 was granted to it was without basis and is, accordingly, rejected; and (iv) that the mining lease, ML 1858, executed by the government was indicative that it was in the name of Babulal Nathuram Shah. In view of the aforesaid findings, this Court dismissed KUL's petition (WP No.9581/2011).

17. KUL challenged this court's order dated 31.03.2016, passed in WP No.9581/2011 before the Supreme court, by filing a special leave petition (SLP(C) No.16021/2016). The Supreme Court dismissed the said SLP by an order dated 26.08.2025.

18. In the meantime, KIADB, in a meeting held on 30.05.2007, noted that SQCL had failed to deposit the cost of the subject land (land to the extent of 305 acres and 7 guntas) acquired under the KIAD Act.

19. In the meantime, five parties, including KUL and JKL had requested for allotment of the subject land for establishment of a cement plant. The request of the said parties was considered by KIADB at an earlier meeting held on 30.01.2006, and it was resolved to allot the subject land for the project approved under the State High Level Clearance Committee (SHLCC). KIADB noted that the project proposals of the five parties who had requested allotment of the subject land had been cleared by SHLCC. Accordingly, KIADB asked the said companies to submit their final offer for allotment of the subject land.

20. The said parties had submitted their offers within the period stipulated. KUL had offered ₹2,43,300/- per acre, which was the lowest, and JKL had offered ₹3,02,000/- per acre, which was found to be the highest amongst all offers. Since the JKL's bid was the highest, KIADB accepted it, and the subject land was allotted in favour of JKL by a letter dated 03.07.2007, which is impugned in the present petition. KIADB sought approval of the Government for the allotment of the said land. The State Government approved the allotment of the subject land to JKL for mining purposes.

REASONS AND CONCLUSIONS

21. As noted at the outset, the learned counsel appearing for KUL confined the challenge to the impugned communications on the ground that the same violated Rule 59 of the MC Rules, as were in force at the material time. It was also argued by the learned counsel for the petitioner that the MMDR Act and the MC rules are a complete code and override the KIAD Act. He argued that the subject land could be leased only under the MMDR Act, and it was impermissible for KIADB to allot the land to JKL. He also noted that 12 acres of land were removed from ML 1858. In respect of this parcel of land, a Notification dated 28.03.2002 was

issued under Rule 59 of the MC Rules, notifying their availability for regrant, which, according to the petitioner, was the correct procedure to be followed. He contended that selectively not following the said procedure in respect of the subject lands would constitute malice in law. The learned counsel also referred to certain decisions in support of his contentions, which would be noted hereafter.

22. The learned counsel appearing for KIADB and JKL countered the aforesaid submissions. They contended that the contentions advanced are not supported by any pleadings, and thus it was impermissible for the petitioner to pursue the same.

23. The learned counsel appearing for KIADB also submitted that there is no cavil that before granting any mining lease, the MMDR Act and the rules made thereunder are required to be followed. He submitted that the KIADB had not granted any mining rights but had merely transferred the surface rights, which it was entitled to do. It was also contended that the petitioner is estopped from challenging the allotment of the subject land, as it had participated in the allotment process without reservation.

Having failed to offer the highest price, it commenced a series of litigation to interdict the use of the subject land.

24. Before proceeding to address the rival submissions, it is necessary to note that the arguments advanced before the court are not supported by any averments made in the petition. Some of the contentions advanced on behalf of the petitioner run contrary to the averments made in the present petition. The averments made in the petition indicate that petitioner had challenged the impugned allotment on several grounds, including that the allotment was made without following regulations made under the KIAD Act. It is implicit that, according to the petitioner, the KIAD Act and the regulations made thereunder were applicable. It is expressly averred in the petition that KIADB is a statutory body and "is required to grant land in terms of the Regulations of Allotment framed by them". The petitioner has also averred that "it is legally not permissible either under the provisions of the KIAD Act or the Rules framed thereunder, to give the land acquired for this project to any other person overlooking the subsisting leasehold rights in favour of the Petitioner". However, contrary to the said contentions, it is now

contended that the KIAD Act and the rules made thereunder are not applicable, and that the subject land can be leased only in accordance with the procedure under the MMDR Act. According to the petitioner, the MMDR Act overrides KIAD Act and, therefore, the KIAD Act is not applicable.

25. We may note that the present petition is founded on the presumption that the petitioner had acquired the leasehold rights in respect of the subject land by virtue of an auction of assets of SQCL conducted by the learned DRT. The petitioner had participated in the auction and quoted a sum of ₹11.3 crores for the assets of SQCL, on the premise that it would be conveyed the right, title and interest in respect of the Factory Land. KUL also claims that, in addition, SQCL acquired the subject land (305 acres and 7 guntas) so as to have a seamless supply of raw materials and, "therefore, as a consequence, the said lands are required to be allotted in favour of the petitioner".

26. Concededly, none of the grounds on which the present petition is founded was urged or pressed by the learned counsel of KUL.

27. KUL's principal claim that it is entitled to the rights in the subject land pursuant to being the successful purchaser of the Factory Land was pursued by KUL before this court as well as before the Supreme Court. But it did not prevail. This foundational issue is concluded against KUL.

28. As noted above, the contention that the KIAD Act and the regulations framed thereunder, including Regulation 17, were violated has now been abandoned. It is now contended on behalf of the petitioner that the MMDR Act and the regulations are not complied with, and that the allotment under the KIAD Act is impermissible. We may note that this contention is founded on the premise that there can be no severance between the grant of mining rights and surface rights. It was earnestly contended on behalf of the petitioner that there can be no severance with surface rights and mining rights, and therefore, no lease granting surface rights could be made in favour of JKL without conferring mining rights, and the said rights could not be conferred other than in accordance with the MMDR Act and the MC Rules. We may note that this contention is also inconsistent with the averments made by KUL in the present petition. The petitioner had expressly averred that "the 3rd respondent if he has any right

can only claim the compensation for surface rights as determined by the Government in terms of the Mineral Concession Rules. Other than fixing compensation, the 3rd respondent has no other rights".

29. It is clear that the contentions advanced before us were not only not supported by the pleadings but run contrary to the averments made in the present petition. It is apparent that KUL, having failed to establish its case right up to the Supreme Court, now, almost nineteen years later, seeks to set up a case contrary to that pleaded in the present petition.

30. The learned counsel appearing on behalf of KUL submits that there is no estoppel against law and therefore, KUL is entitled to raise questions of law at this stage. However, it is also well settled that the exercise of the power under Article 226 of the Constitution of India is discretionary. We do not think it would be apposite to exercise the discretion in favour of KUL in the given facts, where, having failed to establish its entitlement to rights in the subject land for the past 19 years, it now seeks to change its tack and argue contrary to it, as claimed for the past 19 years.

31. In view of the above, it is not necessary to address the other questions that are raised by the learned counsel for KUL. However, since we had heard contentions in regard to the applicability of Rule 59 of the MC Rules, for the sake of completeness, we consider it apposite to address the same.

32. The relevant extract of Rule 59 of the MC Rules, as applicable at the material time, is set out below:

> "**59. Availability of area for regrant to be notified** :-
> (1) No area –
> (a) which was previously held or which is being held under a reconnaissance permit or a prospecting licence or a mining lease ; or
> (b) which has been reserved by the Government or any local authority for any purpose other than mining ; or
> xxx xxx xxx
> shall be available for grant unless –
> (i) an entry to the effect that the area is available for grant is made in the register referred to in sub-rule (2) of rule 7D or sub-rule (2) of rule 21 or sub-rule (2) of rule 40 as the case may be; and
> (ii) the availability of the area for grant is notified in the Official Gazette and specifying a date (being a date not earlier than thirty days from the date of the publication of such notification in the Official Gazette) from which such area shall be available for grant:
> xxx xxx xxx"

33. There is no dispute that the subject land was included in ML 1858. However, it is contended on behalf of KIADB that the respondents refer to notifying the availability of land for re-grant

and not for grant. According to KIADB, this is not a re-grant but a grant made for the first time after the lands were acquired. KIADB also contends that it has not granted mining rights but merely leased surface rights of the subject. Therefore, there is no violation of Rule 59 of the MC Rules. KIADB also states that before granting any mining rights, the applicable rules framed under the MMDR Act would require to be followed. Illustratively, KIADB refers to the allotment of land to the extent of 12 acres in favour of respondent No.5. After the said allotment, respondent No. 5 had filed an application under Rule 22 (1) of the MC Rules, as were then applicable, to the State Government. The State Government had thereafter proceeded to issue a Notification dated 23.03.2002 as required under Rule 59 of the MC Rules. The mining rights were granted to respondent No.5 in respect of 12 acres after the issuance of NOC from the Karnataka State Pollution Control Board. KIADB states that similarly, JKL would also be required to comply with all necessary rules for securing the mining license under the provisions of the MMDR Act and Rules made thereunder.

34. We are inclined to agree with the contention that the challenge on the ground of violation of Rule 59 is premature, as

no mining lease or rights in respect of minerals have been granted to JKL. The State Government had acquired the subject land under Section 28 of the KIAD Act. Thereafter, the lands were placed at the disposal of KIADB. In terms of Section 28(8) of the KIAD Act, the subject land was transferred to KIADB for the purpose for which it was acquired. In the given facts, KIADB had decided to invite offers for allotment without issuing a public notice. Although it is averred in the present petition that the same is not permissible and contrary to the KIAD Act, as noted above, the said contention was not pressed. Karnataka Industrial Areas Development Board Regulations, 1969, permit the disposal of lands in special cases without issuing public notices. KUL participated in the said exercise and submitted its offer; however, this is not mentioned in the present petition. KIADB had allotted the subject land to JKL at the price it offered. JKL acquired the surface rights to the subject land, previously held by KIADB. As noted herein, the petitioner had expressly averred in the present petition that KIADB held surface rights of the subject land; thus, it would be entitled to compensation for the same if the mining lease was granted. However, inconsistent with this pleading, it is contended that there can be no severance of surface rights and

mining rights. The learned counsel for the petitioner had strongly relied on the decision of **M/s. Burrakur Coal Company Limited vs Union of India**[1], in support of the said contention. The reliance placed on the said decision is misplaced. This is apparent from the following extract of the said decision:

> "17. Adverting to Section 13 of the Act which deals with compensation for prospecting licences ceasing to have effect and rights under mining leases being acquired, it was contended that as there is no provision for compensation in respect of the minerals lying underground, Parliament could not be deemed to have enacted this law for the purpose of acquiring mines which have been worked in the past. According to Mr Das if we have understood him right, when a person has acquired land either as an owner or as a lessee carrying with it the rights to win minerals and has opened in that land mines which he worked for sometime, there takes place a severance between the right to the surface and right to the minerals and that consequently such person will thereafter be holding the minerals as a separate tenement, that is, something apart from the land demised and this separate tenement cannot be acquired under the terms of the present Act or, if it can be so acquired, it has to be specifically compensated for. Reference to the several provisions of the Act and in particular to those of Section 13 indicates, according to learned counsel, the limited scope of the Act. It is difficult to appreciate the contention that merely because the owner or the lessee of a land had opened mines on that land, a severance is effected between the surface and the underground minerals. It may be that a trespasser by adverse possession for the statutory period can acquire rights to underground minerals. It may also be that if that happens the surface rights would become severed from the mineral rights as a result of which the minerals underground would form a

[1] 1961 SCC Online SC 23

> separate tenement. It is, however, difficult to see how the owner or the lessee of land who has right to win minerals can effect such a severance between the mineral rights and surface rights by opening and operating the mines of that land. For, even while he is carrying on mining operations he continues to enjoy the surface rights also. We cannot, therefore, accept the contention that there was any severance of the mineral rights and surface rights in either of these two cases."

35. The Supreme Court rejected the contention that the owner who has the right to mine minerals from the land can sever the mineral rights from the surface rights by opening and operating mines on that land. We may note that the Supreme Court had made this observation in the context of a challenge to a notification issued under Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, expressing its intention to prospect for coal in an area approximately 5 sq. miles, which included two collieries owned by the petitioner. The petitioner's case was that in consequence of such notification, they were precluded from carrying on mining operations and the State Government was entitled to acquire mining rights.

36. It is well settled that an owner of the land does not acquire the rights in the minerals under the said land. However, the grant of mining rights may deprive the landowner of the right to use the

surface. We may also refer to Section 24A of the MMDR Act, as was applicable at the material time. The said Section is set out below:

> "**24A. Rights and liabilities of a holder of prospecting licence or mining lease.** - (1) On the issue of a reconnaissance permit, prospecting licence or mining lease under this Act and the rules made thereunder, it shall be lawful for the holder of such permit, licence or lease, his agents or his servants or workmen to enter the lands over which such permit, lease or licence had been granted at all times during its currency and carry out all such reconnaissance, prospecting or mining operations as may be prescribed:
>
> Provided that no person shall enter into any building or upon an enclosed court or garden attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so.
>
> (2) The holder of a reconnaissance permit, prospecting licence or mining lease referred to in sub-section (1) shall be liable to pay compensation in such manner as may be prescribed to the occupier of the surface of the land granted under such permit, licence or lease for any loss or damage which is likely to arise or has arisen from or in consequence of the reconnaissance, mining or prospecting operations.
>
> (3) The amount of compensation payable under sub-section (2) shall be determined by the State Government in the manner prescribed."

37. In terms of Sub-section (2) of Section 24A of the MMDR Act, the holder of a mining licence was required to pay compensation to the occupier of the surface rights. Thus, there is a clear distinction between surface rights and rights to minerals

on or under the said land. Thus, a person owning surface rights is required to be compensated if mining rights in respect of the said land are granted to another person. The averments made in the present petition also suggest the same.

38. As noted before, KUL had expressly pleaded that the rights of KIADB were confined to the surface rights of the subject land. The allotment of the subject land to JKL is for mining purposes and, therefore, the subject land cannot be used for other purposes, unless permitted. However, that does not mean that the allotment of land grants mining rights to JKL.

39. In view of the above, we find no merit in the contention that the allotment of land in favour of JKL violated Rule 59 of the MC Rules.

40. There is also no dispute that the MMDR Act and the rules made thereunder are a complete code for grant in respect of mining rights. However, that does not mean that KIADB is precluded from allotting any lands owned by it. Both enactments – the MMDR Act and the KIAD Act – operate in different fields.

41. In view of the above, the present petition is unmerited and is accordingly dismissed.

42. The pending interlocutory applications also stand disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

AHB/KMV