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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 01.09.2016

ORDERS DELIVERED ON : 02.09.2016

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.(MD) No.15863 of 2016

and

W.M.P.(MD) Nos.11630 & 11631 of 2016

P.Ashokan

.. Petitioner

vs.

1.The District Collector,
Madurai District, Madurai.

2.The Assistant Director,
Geology and Mining Department,
Madurai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for records relating to the proceedings of the Impugned notification in Na.Ka.No.345/2016-mineral, dated 01.08.16 published in the Madurai District Gazette, dated 02.08.16 on the file of the 1st Respondent and quash the same and further directing the 1st Respondent to permit the Petitioner to remove the stones cut by him in pursuant to the lease agreement, dated 29.09.10, in respect of the lands in survey No.207(part), Tiruchunai Village, Melur Taluk, Madurai District.

For Petitioner : Mr.G.Prabhu Rajadurai

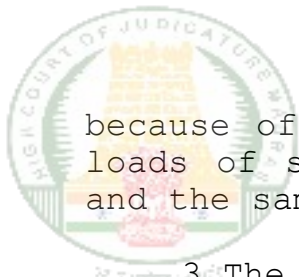
For Respondents : Mr.S.Kumar

Additional Government Pleader

O R D E R

The Learned Counsel for the Petitioner urges before this Court that the impugned proceedings of the First Respondent/District Collector, Madurai District in Na.Ka.No.345/2016-mineral, dated 01.08.2016 (published in Madurai District Gazette on 02.08.2016), is an illegal one, besides the same being arbitrary and in breach of violation of fundamental right to livelihood.

2.The Learned Counsel for the Petitioner submits that the First Respondent/District Collector, Madurai District should have seen that the Petitioner had not enjoyed his entire period of Lease,



because of the natural calamities and in fact, there are about 200 loads of stones lying in the quarrying site cut by the Petitioner and the same has to be removed.

3. The stand of the Petitioner is that the impugned proceedings of the First Respondent, dated 01.08.2016 suffers from non application of mind. Also, it is represented on behalf of the Petitioner that the Learned Counsel for the Petitioner seeking 'Extension of his Lease period' is pending before this Court. Besides this, the Learned Counsel for the Petitioner projects an argument that the Petitioner was not provided with an opportunity before passing of the impugned order, dated 01.08.2016 by the First Respondent/District Collector, Madurai District.

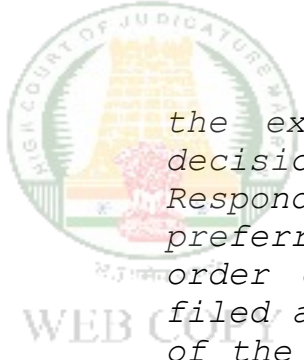
4. The prime plea taken on behalf of the Petitioner before this Court is that he gave a representation before the Respondents on 31.08.2015 to consider his request for extension of lease period viz., for a further period of six months, for which, he had given an undertaking to pay the lease amount fixed by the Respondents and further that the same was not considered by the Respondents. As such, he had filed W.P.(MD)N0.18704 of 2015 before this Court and the same was dismissed as an infructuous one and liberty was given to the Petitioner to challenge the rejection order in the manner known to Law.

5. The Learned Counsel for the Petitioner refers to the decision of this Court in **DISTRICT COLLECTOR, NAMAKKAL DISTRICT v. K. ANBARASI**, reported in **2001 (4) MLJ 643**, at special page 644, wherein it is observed as under:-

"Despite the settle legal position that period of lease for quarrying cannot be extended as there is no rule providing for such extension, the benefit of extension can be provided to the lessee for the un-utilized period of lease on account of an order of suspension of lease."

6. Also, in the aforesaid decision, he refers to the pages at 649 to 652, at paragraph Nos.19 to 22, it is observed as under:-

"19. In the case of Beg Raj Singh v. State of U.P. and Ors. [MANU/SC/1183/2002](https://www.manuonline.com/SC/1183/2002) : 2003 (1) SCC 726, the Petitioner applied for sand mining lease in accordance with the policy decision contained in the relevant GO. The Collector granted the said lease to the Petitioner. The lease was executed for a period of one year w.e.f. 3.6.1998. Before the expiry of the term of the lease, the Petitioner sought for a renewal for another period of two years. The Collector granted such extension vide order dated 20.12.2000; the principal consideration for granting such renewal being that the lease, as originally executed, should have been for a minimum period of three years which having not been done and the lease having been executed for a period of one year, the Petitioner was entitled to such extension for two years. Around the time when the Petitioner was allowed



the extension of two years, the Government had taken a decision to hold an auction of the sand mining lease. Respondent 3, a competitor aspirant of the Petitioner, preferred a revision before the State Government against the order of the Collector dated 20.12.2000. The revision was filed after expiry of one year and four months from the date of the order of extension. The State Government condoned the delay in filing the revision on the ground that the revision was filed within the period of limitation calculated from the date of the knowledge of Respondent 3. The issue as to locus standi was also decided in favour of Respondent 3. The State Government, vide its order dated 22.4.2002, set aside the order of the Collector influenced mainly by the consideration that the State Government having decided to hold an auction of the mining rights, it was likely to gain higher revenue and therefore it was in public interest to transfer mining rights by holding an auction. The Petitioner preferred a writ petition before the High Court which was dismissed. Though the High Court opined that the order of the Collector granting two years' extension of mining rights to the Petitioner was justified and the State Government was not justified in interfering and setting aside the order of the Collector but it denied the relief to the Petitioner on the ground that auction would subserve public interest by fetching higher royalty to the State Government and further, because the period of three years calculated from the date of the original grant had in any case come to an end and therefore, no relief could be allowed to the Petitioner. Against such order, the Petitioner filed the Special Leave Petition before the Supreme Court. Allowing the Special Leave Petition, their Lordships of the Supreme Court observed as under:

"5 The only submission made by the learned Counsel for the Petitioner is that the Petitioner has been given a very rough deal by the State Government and the injustice done to the Petitioner the High Court has failed to redeem. He had identified and explored the new mining area and made huge expenditure in making the mining area approachable and therefore it was the legitimate expectation of the Petitioner that he would be entitled to operate the mine for a minimum period of three years as per the declared policy of State Government. The State Government should not have interfered with the order of the Collector and that too at the instance of a third party--the Respondent No. 3, when no auction was held and no right was created in favour of the Respondent No. 3. Matter as to the grant or renewal of the lease for a total period of three years was in accordance with the policy of the State Government and was a matter between the State and the Petitioner. It was



submitted at the end that the Petitioner has been agitating his right diligently throughout and the time lost in prosecuting legal proceedings upto the High Court wherein the plea raised by the Petitioner laying challenge to the order of the State Government was found to be meritorious and the order of the State Government held liable to be set aside, the Petitioner should not have been denied relief and should have been allowed to operate the mine for that period by which the mining operation by the Petitioner fell short of three years time.

6. Having heard the learned Counsel for the Petitioner, as also the learned Counsel for the State and the private Respondent, we are satisfied that the petition deserves to be allowed. The ordinary rule of litigation is that the rights of the parties stand crystallized on the date of commencement of litigation and right to relief should be decided by reference to the date on which the Petitioner entered the portals of the Court. A Petitioner, though entitled to relief in law, may yet be denied relief in equity because of subsequent or intervening events, i.e. the events between the commencement of litigation and the date of decision. The relief to which the Petitioner is held entitled may have been rendered redundant by lapse of time or may have been rendered incapable of being granted by change in law. There may be other circumstances which render it inequitable to grant the Petitioner any relief over the Respondents because of the balance tilting against the Petitioner on weighing inequities pitted against equities on the date of judgment. Third party interests may have been created or allowing relief to the claimant may result in unjust enrichment on account of events happening in between. Else the relief may not be denied solely on account of time lost in prosecuting proceedings in judicial or quasi-judicial forum and for no fault of the Petitioner. A Plaintiff or Petitioner having been found entitled to a right to relief, the Court would as an ordinary rule try to place the successful party in the same position in which he would have been if the wrong complained against would not have been done to him. The present one is such a case. The delay in final decision cannot, in any manner, be attributed to the Petitioner. No auction has taken place. No third party interest has been created. The sand mine has remained un-operated for the period for which the period of operation falls short of three years. The operation had to be stopped because of the order of the State Government intervening which order has been



found unsustainable in accordance with stipulations contained in the mining lease consistently with the G.O. issued by the State of Uttar Pradesh. Merely because a little higher revenue can be earned by the State Government that cannot be a ground for not enforcing the obligation of the State Government which it has incurred in accordance with its own policy decision.

20. In the case of *S. Ganesan v. District Collector, Tiruchirappalli* [MANU/SC/0341/2002](#): JT 2002 (3) SC 90, pursuant to the notification calling for tender for grant of leasehold rights to quarry sand jelly in SF No. 61 in Manamedu Village, Tiruchi District in the State of Tamil Nadu for a period of three years from 14.1.1996 to 31.3.1999, the Appellant was the highest bidder offering an amount of Rs. 19 Lakhs per year and he deposited the amount towards the first year. One unsuccessful bidder, however, filed writ petition before the High Court in which interim injunction was granted restraining the Respondents from granting lease. In the meanwhile, the bid in favour of the Appellant was confirmed. Learned single Judge, subsequently, dismissed the writ petition on 29.10.1999 as having become infructuous because the lease period for which the lease was granted itself had expired. Thereafter, the Appellant made a representation to the State Government to direct grant of leasehold right as there was no impediment in the way of the Government. The Appellant, relying upon Rule 8-A sought quarry of the lease for three years from the date on which the lease was executed. The Collector rejected the representation on the ground that the new rules had come into force and in the new rules, lease could not be granted in favour of the Appellant. The Appellant, therefore, filed a writ petition before the High Court and the matter ultimately went to the Supreme Court. Allowing the appeal, their Lordships held as under:

"6. In somewhat identical circumstances when a peculiar situation arose, this Court in *V. Karnal Durai v. District Collector, Tuticorin and Anr.* [MANU/SC/0754/1998](#): (1999) 1 SCC 475, taking note of the fact that for no fault of the Appellant the lease period having expired, the lease could not be granted in his favour and, therefore, directed grant of lease of the land in question on appropriate terms. In this matter, land is still available for being leased as per letter of the deputy director (G&M), Tiruchirappalli to which we have adverted to earlier. In the circumstances arising in this case, we think the order made by the High Court in the writ petition and in the writ appeal should be set aside and the writ be allowed as was done in *V. Karnal Durai's* case but subject to the condition that the Appellant shall make further payment in



respect of the lease amount per year by enhancing the same by 50% of the earlier bid. This amount is fixed by us taking note of the fact that the money paid by the Appellant has been with the Respondent for more than a period of 5 years. All other terms shall be governed by the new rules. The department shall now give reasonable time to the Appellant to deposit the amount of lease for the entire period of 3 years which shall not be less than four weeks from today."

21. We have given our anxious consideration to the submission made on either side and have taken note of a law declared by the Hon'ble Supreme Court in the Judgments mentioned supra. Hence, it can safely be concluded that the ratio decided by this Court in the cases of *L. Boomiraja v. The District Collector, Dindigul District* [MANU/TN/0881/2005](#): (2005) 3 M.L.J. 280, *R. Govindasamy v. The District Collector, Erode District* [MANU/TN/1466/2003](#): 2004 (1) CTC 139 and *A. Kumar and Ors. v. The District Collector, Kancheepuram* 2010 Writ L.R. 285 are distinguishable.

22. As noticed above, the case of the Respondents in W.A. Nos. 1018 and 1019 of 2010 is that the Appellant issued a tender notice under Rule 8(1)(a) of the Tamil Nadu Mines and Mineral Concession Rules, 1959, in respect of various stone quarries in Namakkal District. The Respondents participated in the tender and became the successful bidders. Thereafter, lease deeds were executed on 19.09.2003 for a period of five years. The said lease was suspended by an order dated 11.07.2005, which was challenged by filing two writ petitions. A learned single Judge of this Court by order dated 08.08.2005, directed the Appellant to measure the property (quarry site) and hand over the same to the Respondents within three weeks and further observed that the period of suspension suffered by the Respondents shall be taken into consideration for extending the grant of the lease period by the Appellant herein."

7. He also cites a the decision of this Court in **K. DHANASEKAR v. DISTRICT COLLECTOR, KANCHEEPURAM** reported in **2014(7)MLJ 674**, at special page No.678, wherein it is observed as follows:-

"8. In this case, the quarrying operations carried on by the Petitioner was stopped due to the indulgence of third parties in Chettipuniyam Village. Subsequently, the Petitioner has given a complaint to the Respondent and other authorities, at whose instance, the Petitioner was permitted to resume the quarrying operation. Therefore, in such circumstances, even though there is no provision for extension of lease, still the Respondent can consider extending the lease in favour of the Petitioner."



8.Also, in the aforesaid decision at page No.679, at paragraph No.14, it is observed as under:-

"Though the prayer in this writ petition is to direct the Respondents to permit the petitioner to carry out the quarrying operations for 47 days, it is to be stated that when the writ petition was filed by the petitioner on 12.04.2013, the lease period was very much in existence and it came to an end on 17.04.2013. Now, the lease period has come to an end and therefore, it has become necessary that the respondent has to issue licence to the petitioner for continuing the lease. It is for the respondent to consider issuing such licence taking note of the attendant facts and circumstances on the basis of the representation, dated 03.04.2013 submitted by the petitioner. In the above facts and circumstances, this Court directs the respondent to consider the representation dated 03.04.2013 of the petitioner seeking extension of lease period for 47 days, examine whether the petitioner is entitled for such extension of lease and pass orders thereon on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order. The writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed."

9.Conversely, it is the contention of the Learned Additional Government Pleader for the Respondent Nos.1 and 2 that the writ Petitioner was the highest second bidder and he was awarded with Lease for a period of five years as per proceedings dated 29.09.2010. Therefore, a lease deed was executed on 15.10.2010 and the lease period was valid up 14.10.2015.

10.Advancing his arguments, the Learned Additional Government Pleader for the Respondent Nos.1 and 2 takes a stand that the writ Petitioner submitted a representation on 31.08.2015 stating that due to rain and stagnation of rain water, he was not able to carry out the quarry operation for a four months period in a year, totalling in all twenty months, in similar circumstances and ultimately, he made a request to extend the Lease period for a further period for six months beyond 14.10.2015.

11.Learned Additional Government Pleader for the Respondent Nos.1 and 2 refers to the Tender cum Auction Notification No.32, dated 07.10.2009 and relies upon the Condition No.27, which runs as under:-

"The applicants shall participate in the tender only after knowing the conditions stipulated in the District Gazette Notification and the relevant rules under the Minor Mineral Concession Rules, 1959. Ignorance of the rules and the tender conditions after submitting the application would not be accepted."



12. He also points out to the Condition No.16 of the Auction Notification, dated 07.10.2009, which runs as follows:-

"The quarry lease issued under the rules shall not be extended or renewed for any reasons."

13. Moreover, Condition No.43 enjoins as follows:-

"The Lessee shall not claim any right over the area of the quarry site after the expire of the lease period."

14. The Learned Additional Government Pleader emphatically points out that Clause (ii) of Sub-Rule (8) of Rule 8 of the Tamil Nadu Minor Mineral Concession Rules, 1959, reads as under:-

"The lease shall expire on the date specified in the lease deed and in no case extension of the period of lease shall be made."

and submits that as far as the writ Petitioner is concerned, the lease period came to an end on 14.10.2015 and in reality, the Petitioner had not submitted any representation before 31.08.2015 about the purported non operation of the quarry due to heavy rains and even if it was made, it cannot be considered because of the specific bar envisaged under Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959. In fact, the Petitioner's representation, dated 31.08.2015 was disposed of by the District Collector, as per proceedings dated 22.09.2015.

15. The Learned Additional Government Pleader for the Respondent Nos.1 and 2 strenuously takes a plea that there is no specific provisions under the Lease Agreement entered into between the parties enabling the Petitioner to permit the removal of stone lying in the lease hold area after expiry of the Lease period. Further, it is represented that there is a specific provision of Rule 36(5)(f) of Tamil Nadu Minor Mineral Concession Rules, 1959, against the claim of the writ Petitioner to remove the stone already quarried.

16. Apart from that, on the side of the Respondents, it is brought to the notice of this Court that Rule 36(5)(g) of the Tamil Nadu Minor Mineral Concession Rules, 1959, speaks as under:-

"The person quarrying under a permit or lease in any are under the Rules in Section II shall not keep in the land any engine, machinery, plant, articles or things whatsoever after the expiry of the period of the quarrying permit or quarrying lease and they shall be removed from the land on the last day of the quarrying permit or quarrying lease."

17. The Learned Additional Government Pleader for the Respondent Nos.1 and 2 contends that it is the duty of the writ Petitioner to hand over possession of the lease hold land to the First Respondent/District Collector or District Forest Officer, as the case may be on the next day immediately after expiry of the lease or termination or cancellation of lease by filing an affidavit to the



above effect, as per Sub Rule (i) of Rule 10 of the Tamil Nadu Minor Mineral Concession Rules, 1959.

18. In this connection, the Learned Additional Government Pleader for the Respondent Nos.1 and 2 refers to the Judgment of the Division Bench of this Court passed in W.A.No.3124 of 2001, wherein it is held as under:-

"The case on hand, the appellant had quarried for the entire lease period of three years and thereafter sought for extension of lease for a period of 206 days on the ground that she could not quarry for the said period during torrential rains and heavy floods. Admittedly, there is no specific provision under the lease agreement enabling the appellant to seek extension of lease period to compensate the non-operating period nor a duty is cast on the respondents either to consider the request of the appellant to extend the lease period or to compensate the non-operative period, and in the absence of any such provision either in the lease agreement or under the Rules, it may not be proper for this Court to interfere with the order of the learned single Judge, dated 20.08.2001 made in W.P.No.12489 of 2001."

19. The Learned Additional Government Pleader for the Respondent Nos.1 and 2 submits that the First Respondent/District Collector, Madurai District, had published an extraordinary Gazette Notification No.4, dated 02.08.2016 for inviting applications for direct grant of three stone quarry leases for which, the lease period had already expired to the SGSY (Swarna Jayanthi Gram Swarozgar Yojana) Scheme Groups and societies formed by released bonded labourers registered under the Tamil Nadu Co-operative Societies Act, 1983 or Tamil Nadu Societies Registration Act, 1975 under Rule 8(10A) 9a) of Tamil Nadu Minor Mineral Concession Rules, 1959 and in fact, the writ Petitioner cannot assail the impugned proceedings of the First Respondent, dated 01.08.2016 citing the pendency of this Writ petition. Also, it is represented on behalf of the Respondents that when the Petitioner represented on 31.08.2015 for extension of Lease period, he never stated that already quarry stones are lying in the quarry site and now the plea projected on the side of the Petitioner is clearly an after thought and indeed after expiry of the Lease, the quarried stones become the property of the Government and that the Petitioner cannot claim any right over the same.

20. The Learned Additional Government Pleader for the Respondent Nos.1 and 2 invites the attention of this Court to the fact that the Petitioner's writ petition in W.P.(MD)No.23644 of 2015 is pending before this Court (wherein he had challenged the order of rejection passed in ROC.No.1221/15, dated 22.09.2015, wherein the Petitioner had raised the same plea to remove the quarried stones and the same is pending for adjudication. In effect, the submission of the Learned Additional Government Pleader for the Respondents is that

when the same plea is under consideration in earlier writ petition, the Petitioner cannot raise the same in the present writ petition before this Court.

21.Lastly, the Learned Additional Government Pleader for the Respondent Nos.1 and 2 refers to Lease Deed Agreement, dated 15.10.2010, wherein Clause 8(2), which reads as under:-

"At the determination of the lease, the Lessee shall be at liberty to remove, carry away and dispose of all the stock of Rough Stone/jelly ready for delivery and all engines machinery and all plant, articles and things whatsoever (not being building or brick or stones), the Lessee first paying any land assessment, cess and seigniorage and other sums which may be due and performing and observing the covenants on lessee's part hereinbefore reserved and contained and also making good any damage done by such removal but any buildings which shall be erected on the said demised pieces of lands by the Lessee and left thereon at the determination of Lease shall be the absolute property of the Lessor who shall not be bound to pay any price for the same."

22.At this juncture, the Learned Additional Government Pleader for the Respondent Nos.1 and 2 cites the decision of this Court in **ANNALAKSHMI v. DIRECTOR OF GEOLOGY AND MINING** reported in **2008 (3) MLJ 249**, wherein it is held as follows:-

"It is settled law that the word "extension" means a prolongation of the existing lease. If such extension is granted after the period of original lease is over, it would amount to granting of fresh lease."

23.Also, the Learned Additional Government Pleader for the Respondent Nos.1 and 2 refers to the Full Bench decision of this Court in **C.MUTHUKRISHNAN v. THE DISTRICT COLLECTOR, TIRUNELVELI DISTRICT** reported in **2011 (5) CTC 577**, at special page 587, whereby and where under, it is observed as follows:-

"18.In respect of the 2nd set of cases about which we are concerned, in these batch of cases, it is after the amendment has come into existence, the concerned District Collectors issued Notifications calling for tenders for issuing lease by restricting the period as five years. It is based on those Notification issued by the District Collectors, the Petitioners have applied for the restricted period of five years and Lease Deed were executed subsequently. In the lease deeds executed, no doubt, one of the clauses, namely Clause 24, states "The lessee shall abide all the conditions laid down in Tamil Nadu Minor Mineral Concession Rules, 1959." This clause reads with Rule 8(11) enforces the duty of the lessee to act as per the terms of lease. Mere reference under Rule 8(8), as amended by giving a period of 10 years lease by using the word



'shall', cannot be construed to be a mandatory duty on the part of the District Collectors while giving Notification. Such construction would mean that even in places where minerals may not be available for exploitation for a period of 10 years based on the scientific assessment the District Collector is compelled by giving such lease for 10 years, which, in our considered view, cannot be the intent of the law makers in exploiting minor minerals. Further, such construction would mean that irrespective of any circumstance, when for the first time, a lease is entered into by the District Collector, it would be for a period of 10 years. In our view, while issuing Notification, the District Collector decides about the availability of minor minerals for exploitation and then proceeds to notify indicating the period. It may not be said to be illegal or against the statute merely because the period is mentioned less than 10 years. Even though the statute gives a right to the parties, by virtue of the conduct of the parties, they have accepted to receive lesser benefit and having accepted the same, it is not certainly open to those parties to rely upon the statute to show that the contract voluntarily entered should be modified. If the parties have chosen to challenge the Notification of the District Collector that their right has been restricted by Notification, that will be on a different footing wherein this Court would be forced to enter into the fact as to whether the District Collector has applied his mind about the availability of minor minerals for provisions of the Rules, have entered into the terms of contract restricting their legal rights, cannot, in our view, as a matter of right, claim to substitute the statutory provisions in the terms of contract."

24. By means of reply, the Learned Counsel for the Petitioner refers to Clause 8(2) of the Lease Deed Agreement, dated 15.10.2010 and contends that 'at the determination of the lease, the Lessee shall be at liberty to remove, carry away and dispose of all the stock of Rough Stone/jelly ready for delivery etc', and in fact, the ingredients of Clause 8(2) are only in favour of the Petitioner.

25. This Court has heard the Learned Counsel for the Petitioner and the Learned Additional Government Pleader for the Respondent Nos.1 and 2 and noticed their contentions.

26. At the outset, it is to be pointed out that duration of a Lease is determined by an 'Agreement of Parties'. Undoubtedly, a 'Renewal of Lease' is really a grant of 'Fresh Lease'. It is to be remembered that the relationship of a 'Lessor' and 'Lessee' is one on 'CONTRACT' and a 'Lease' is defined as 'a contract between Lessor and Lessee for possession and profits of land' on the one side and recompense by means of rent or other consideration on the other.



27. Furthermore, in case of Lease by the Government, it cannot be said that on the expiry of the Lease by efflux of time, the power to resume cannot be exercised because of the Lease is not in operation and the Lessor could not fall back upon its terms. In reality, on the expiry of the term of Lease, the Lessee becomes 'the Lessee Holding Over' and that the Lessor is legally entitled to terminate the Lease.

28. As far as the present case is concerned, the Petitioner's period of Lease was over on 14.10.2015 and as such, the Petitioner has no right in the quarry site after the expiry of the Lease period. Even Rule 36(5)(g) of the Tamil Nadu Minor Mineral Concession Rules, 1959, clearly states that '*The person quarrying under a permit or lease in any are under the Rules in Section II shall not keep in the land any engine, machinery, plant, articles or things whatsoever after the expiry of the period of the quarrying permit or quarrying lease and they shall be removed from the land on the last day of the quarrying permit or quarrying lease.*'

29. At this stage, one cannot ignore a prime fact that on the side of the Petitioner heavy reliance is placed on the Clause 8(2) of the Lease deed, 15.10.2010 (entered into between the parties) and an argument is advanced on behalf of the Petitioner that Clause 8(2) of the Lease Deed clearly enjoins that '*at the determination of the lease, the Lessee shall be at liberty to remove, carry away and dispose of all the stock of Rough Stone/jelly ready for delivery etc*' and furthermore, it is represented that the said Clause 8(2) only aids the Petitioner. However, this aspect is repudiated on behalf of the Respondents by referring to Section 36(5)(f) of the Tamil Nadu Minor Mineral Concession Rules, 1959, which enjoins that '*no person is entitled to remove any mineral from any land after expiry of the period of the quarrying permit or quarrying lease granted under these Rules*'.

30. Added further, on the side of the Respondents, this Court's attention is drawn to the ingredients of Rule 36(5)(g) of the Tamil Nadu Minor Mineral Concession Rules, 1959, which speaks to the effect that '*the person quarrying under a permit or lease in any are under the Rules in Section II shall not keep in the land any engine, machinery, plant, articles or things whatsoever after the expiry of the period of the quarrying permit or quarrying lease etc.*'

31. In this connection, this Court, relevantly points out that Section 36(5)(h) of the Tamil Nadu Minor Mineral Concession Rules, 1959, speaks of '*in case of breach by the quarrying permit-holder or quarrying lease holder or his transferee or assignee of any of these Rules or of the conditions of the lease, the Director of Geology and Mining or the Chief Conservator of Forests, as the case may be, or the District Collector or the District Forest Officer, as the case may be, without prejudice to any other penalty which may be imposed in respect of such breach, may cancel the lease after granting an*



opportunity of hearing to the said person.' In fact, Section 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959, deals with Penalties. Section 36-C of the Tamil Nadu Minor Mineral Concession Rules, 1959, refers to filing of an Appeal and Second Appeal before the concerned authority stated therein.

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32. At this juncture, this Court, aptly refers to Section 36-D of the Tamil Nadu Minor Mineral Concession Rules, 1959, which enjoins that 'Settlement of questions or disputes regarding an agreement'. Also, Rule 37 of the Tamil Nadu Minor Mineral Concession Rules, 1959, runs as under:-

"These Rules shall not, however, affect the leases already executed in respect of minor minerals in accordance with the Rules in the Tamil Nadu Mining Manual or the Tamil Nadu Minor Mineral Concession Rules, 1956."

33. Be that as it may, in the upshot of detailed qualitative and quantitative discussions, this Court also taking note of the entire gamut of the facts and circumstances of the present case, in an encircling manner, comes to an inevitable and irresistible conclusion that after expiry of Lease period viz., on 14.10.2015, the Lease Deed is not in operation and it is open to the Lessor to proceed further in the manner known to Law and in accordance with Law. Viewed in that perspective the impugned notification in Na.Ka.No.345/2016-mineral, dated 01.08.16, does not suffer from any material irregularities or patent illegalities, in the Eye of Law.

34. Furthermore, in view of the fact that in the present case, there is a dispute between the Petitioner and the Respondents, in regard to the interpretation of Clause 8(2) of the Lease Deed, dated 15.10.2010 and the Rule 36(5)(f) and 36(5)(g) of the Tamil Nadu Minor Mineral Concession Rules, 1959, applicability or otherwise etc., this Court, bearing in mind of Rule 36-D of the Tamil Nadu Minor Mineral Concession Rules, 1959, directs the Petitioner to approach the Director of Geology and Mining, by filing necessary application/petition, for settlement of disputes/questions for arriving at a complete and comprehensive decision in the subject matter in issue, within a period of ten days from the date of receipt of a copy of this order, and to seek redressal of his grievance, if he so desires/advised.

35. With the aforesaid observation(s) and direction(s), the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/



To:

1. The District Collector,
Madurai District, Madurai.

2. The Assistant Director,
Geology and Mining Department,
Madurai.

+1 cc to Mr.G.PRABHU RAJADURAI ,Advocate, Sr.No: 49635

+1cc to M/S Special Government Pleader, Sr No. 50183

JAM/GSV-PM/16.09.16/ 14P-6C

PRE-DELIVERY ORDER MADE IN
W.P. (MD) No.15863 of 2016

02.09.2016