

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.08.2019

PRONOUNCED ON : 20-11-2019

CORAM

THE HONOURABLE MR.JUSTICE M. DHANDAPANI

WRIT PETITION NO.4373 OF 2000
WRIT PETITION NOS.7896, 7897, 7898, 7899, 7900 AND 7901 OF 2001
WRIT PETITION NOS.6958 AND 6959 OF 2002
WRIT PETITION NOS.6487, 6488, 6489 AND 6490 OF 2005
WRIT PETITION NOS.4442 AND 4443 OF 2010
WP(MD)NO.7057 OF 2017

1. THE STATE OF TAMIL NADU, REP.
BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST.GEORGE, CHENNAI - 9.
... PETITIONER IN WP NO.4373 OF 2000
1. STATE OF TAMILNADU REP.BY ITS
THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST.GEORGE, CHENNAI-9.
... PETITIONER in WP.Nos.7896 TO 7901 of 2001,
WP.No.6958 & 6959 of 2002
1. M/S CHETTINAD CEMENTS CORPORATION LTD.,
REP.BY ITS COMPANY SECRETARY,
RENI SEETHA HALL BUILDINGS,
NO.748, 603 ANNA SALAI CHENNAI-6.
... PETITIONER in WP.Nos.6487 TO 6490 of 2005
AND WP(MD).NO.7057 OF 2017
1. SHRI NATRAJ CERAMIC AND CHEMICAL INDUSTRIES LIMITED
REP.BY ITS DEPUTY GENERAL MANAGER (F&A)
DALMIAPURAM-621651
LALGUDI TALUK TRICHY DISTRICT.
... PETITIONER in WP.Nos.4442 & 4443 of 2010

Versus

1. DALMIA CEMENTS (BHARATH) LTD.,
DALMIAPURAM, TIRUCHIRAPALLI.
2. THE SECRETARY TO GOVERNMENT,
MINISTRY OF MINES,
UNION OF INDIA, NEW DELHI.
... RESPONDENTS IN WP.NO.4373 OF 2000

- 1 STATE OF TAMILNADU REP.BY ITS
THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT,
FORT ST.GEORGE, CHENNAI-9.
... 1st RESPONDENT in WP.Nos.6487 TO 6490 OF 2005
... 4th RESPONDENT in WP.Nos.4442 & 4443 of 2010
... 2nd RESPONDENT in WP.No.7057 of 2017

- 1 DALMIA CEMENTS (BHARATH) LTD,
DALMIAPURAM, TIRUCHIRAPALLI
... 1st RESPONDENT in WP.Nos.7896 To 7901 2001

- 1 SHRI NATRAJ CERAMIC AND CHEMICAL INDUSTRIES LIMITED
REP.BY ITS DEPUTY GENERAL MANAGER (F&A)
DALMIAPURAM-621651
LALGUDI TALUK TRICHY DISTRICT.
... 1st RESPONDENT in WP.Nos.7898 To 7899 2001

- 1 M/S.MADRAS CEMENTS LTD.
AURAW CORPORATE CENTRE, 5TH FLOOR,
98.A, DR.RADHAKRISHNAN SALAI,
MYLAPORE CHENNAI-4.
... RESPONDENT in WP No.6958 & 6959 of 2002

- 1 THE SECRETARY TO GOVERNMENT,
MINISTRY OF MINES,
UNION OF INDIA, NEW DELHI.
... 2nd RESPONDENT IN WP.Nos.7896, 7901 OF 2001,
6958 & 6959 OF 2002, 6487 TO 6490 OF 2005
... 3rd RESPONDENT IN WP.Nos.4442 & 4443 OF 2010
... 1st RESPONDENT IN WP.No.7057 OF 2017

1 THE ASST. DIRECTOR OF GEORLOGY AND MINING
DINNDIGUL

... 3rd RESPONDENT IN WP.No.6487 TO 6490 OF 2005

1 THE COMMISSIONER OF GEOLOGY & MINING
INDUSTRIAL ESTATE, GUINDY, CHENNAI.

... 1st RESPONDENT in WP.No.4442 & 4443 of 2010

1 THE DISTRICT COLLECTOR,
PERAMBALUR DISTRICT,
PERAMBALUR.

... 2nd RESPONDENT in WP.Nos.4442 & 4443 OF 2010

1 THE DISTRICT COLLECTOR,
KARUR DISTRICT, KARUR.

... 3rd RESPONDENT IN WP.No.7057 OF 2017

Prayer:-

WP No.4373 of 2000:-

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 2nd Respondent in Final Order No.17/99, dated 31.3.99 and quash the same.

Common Prayer in WP.Nos.7896 To 7901 of 2001:-

These Writ Petitions filed under Article 226 of constitution of India, praying to call for the records of the 2nd Respondent in Final order No.19/2000, 25/2000, 31/2000, 32/2000, 16/1999, 20/1999, 190/2000, 191/2000 respectively, dated 03.03.2000, 03.03.2000, 03.03.2000, 03.03.2000, 31.03.1999, 05.04.1999, 29.11.2000, 29.11.2000 respectively and quash the same.

WP No.6487 of 2005:-

Calling for the records of the first respondent in G.O.Ms. No.81 Dated 13.8.2003, in so far as the condition seeking levy of compensation for using the surface area of the State Poramboke lands, and consequential common demand in proceedings of the 3rd respondent in R.O.C. No. 390/2002(mines) dated 30.9.2004 and quash same as being wholly arbitrary, illegal and without jurisdiction and consequently forbearing the

respondents from in any manner seeking to levy compensation for using the surface area of the State poramboke lands in respect of the lands subject matter of the lease in G.O.Ms. No.81 dated 13.8.2003.

WP No.6488 of 2005:-

Calling for the records of the first respondent in G.O.(3D). No.26 Dated 29.7.2002, in so far as the condition seeking levy of compensation for using the surface area of the State Poramboke lands, and consequential common demand in proceedings of the 3rd respondent in R.O.C. No. 390/2002(mines) dated 30.9.2004 and quash same as being wholly arbitrary, illegal and without jurisdiction and consequently forbearing the respondents from in any manner seeking to levy compensation for using the surface area of the State poramboke lands in respect of the lands subject matter of the lease in G.O.(3D). No.26 dated 29.7.2002.

WP No.6489 of 2005:-

Calling for the records of the first respondent in G.O.Ms. No.22 Dated 9.1.1989, in so far as the condition seeking levy of compensation for using the surface area of the State Poramboke lands, and consequential common demand in proceedings of the 3rd respondent in R.O.C. No. 390/2002(mines) dated 30.9.2004 and quash same as being wholly arbitrary, illegal and without jurisdiction and consequently forbearing the respondents from in any manner seeking to levy compensation for using the surface area of the State poramboke lands in respect of the lands subject matter of the lease in G.O.Ms. No.22 dated 9/1/1989.

WP No.6490 of 2005:-

Calling for the records of the first respondent in G.O.Ms. No.23 Dated 9/1/1989, in so far as the condition seeking levy of compensation for using the surface area of the State Poramboke lands, and consequential common demand in proceedings of the 3rd respondent in R.O.C. No. 390/2002(mines) dated 30.9.2004 and quash same as being wholly arbitrary, illegal and without jurisdiction and consequently forbearing the respondents from in any manner seeking to levy compensation for using the surface area of the State poramboke lands in respect of the lands subject matter of the lease in G.O.Ms. No.23 dated 9/1/1989.

WP No.4442 of 2010:-

Calling for the records of the second respondent comprised in its demand notice in RC.No.262/(G&M)/2009 dated 23.12.2009 and quash the same as being arbitrary and illegal and consequently direct the respondents to continue to grant necessary transport permits in favour of the petitioner for mining and transporting mined materials from the petitioner mining lands comprised in S.F.No.334/3, 224/6, 335/3, 237, 338, 339/1 and 340 and situate at Therani Village, Kunnam Taluk, Perambalur District to its factory at Dalmiapuram, Trichy District without demanding annual compensation for surface rights etc., in respect of the petitioner mining lease areas.

WP No.4443 of 2010

Calling for the records of the second respondent comprised in its demand notice in RC.No.262/(G&M)/2009 dated 23.12.2009 and quash the same as being arbitrary and illegal and consequently direct the respondents to continue to grant necessary transport permits in favour of the petitioner for mining and transporting mined materials from the petitioner mining lands comprised in S.F.No.334/4, 335/1 and 336/6 and situate at Therani Village, Kunnam Taluk, Perambalur District to its factory at Dalmiapuram, Trichy District without demanding annual compensation for surface rights etc., in respect of the petitioner mining lease areas.

WP (MD) .No.7057 OF 2017:-

This Writ Petition filed under Article 226 of Constitution of India, praying to call for the records of the 3rd Respondents proceedings bearing RC.No.02/Mines/2017, dated 22.02.2017 pertaining to lease granted limestone bearing Government Poramboke Lands measuring 4.45.5 hecs comprised in S.F.Nos.15/2, 19/2, 21/1, 22/1, 26/2, 27/2, 30/3, 37, 39(part) 43/2, 44/2, 45/1, 46/1, 67/2, 68/2, 477, 478/2, 480, 481/2 situate in Devarmalai Village and 6.31.0 Hects compried in S.F.No.372, 375, situated in Melapaguthi Village, totaling to 10.76 Hec. Out of the total lease granted area of 166.53.5 Hec Kadavur Taluk, Karur District.

For Petitioner in
WP.Nos.4373 of 2000,
WP.Nos.7896 to 7901 of 2001,
WP.Nos.6958 and 6959 of 2002 :- Mr.Vijay Narayan
Advocate General

Assisted By
Mr.E.Manoharan,
Additional Government Pleader

For Petitioner in

WP.No.6487 to 6490 of 2005

WP.No.4442 and 4443 of 2010: Mr.Raghul Balaji

WP.No.7057 of 2017

: Mr.S.Ramakrishna Reddy

For Respondents in

: Mr.Raghul Balaji for R1

WP.Nos.4373 of 2000,

Mr.J.Madhanagopal Rao for R2

WP.Nos.7896 to 7901 of 2001,

WP.Nos.6958 and 6959 of 2002

For Respondents in

WP.Nos.6487 to 6490 of 2005: Mr.J.Ramesh, AGP - R1 to R3

Mr.J.Madhanagopal Rao - R1

WP.Nos.4442 & 4443 of 2010:

Mr.J.Madhanagopal Rao - R1

Mr.J.Ramesh, AGP - R1, 2 & R4

WP.No.7057 of 2017

: Mr.J.Madhanagopal Rao - R1

Mr.J.Ramesh, AGP, R2 & R3

COMMON ORDER

Among these batch of cases, the Government of Tamil Nadu has filed WP No. 4373 of 2000, WP Nos. 7896, 7897, 7898, 7899, 7900 and 7901 of 2001 as well as WP Nos. 6958 and 6959 of 2002. The rest of the writ petitions were filed by the lessees, in which the Government is arrayed as the respondent.

2. As the issue raised in all these writ petitions is common, they are taken up for adjudication together and disposed of by this common order.

3. For the purpose of appreciation of the factual scenario, the averments made in WP No. 4373 of 2000 filed by the State Government is taken as a test case. The facts leading to the filing of WP No. 4373 of 2000 is as under.

4. The Government of Tamil Nadu vide G.O. Ms. No.2689, Industries Department dated 24.08.1967 granted mining lease to the first respondent M/s. Dalmia Cements (Bharat) Limited for mining limestone over an extent of 5.41 acres in S.F. Nos. 51/1

and 51/2 of Kallakudi Village, Lalgudi Taluk, Tiruchirapalli District for a period of 20 years. The lease deed was executed on 05.02.1968 which expired on 04.02.1988. Therefore, the lessee - Dalmia Cements (Bharat) Limited applied for grant of first renewal of mining lease for lime stone. The Government, after examining the claim for first renewal, issued G.O. No.2 (D) No.364, Industries (MMA-2) Department dated 14.11.1996 granting first renewal of mining lease for limestone over an area of 5.39 acres in Kallakudi Village, Lalgudi Taluk, Tiruchirapalli District for a period of 10 years from 05.02.1988, which was subsequently enhanced to 20 years by the Government by issuing Lr.Ms.No.163, Industries Department dated 03.06.1997. Even in the said Government Order dated 14.11.1996, the rate of royalty, dead rent and surface rent were determined. As far as Surface rent is concerned, the Government directed that Annual rent for the surface right shall be paid at the rate fixed by the District Collector, Tiruchirapalli in respect of poromboke lands besides land revenue and other cesses assessable for the land are also to be fixed by the District Collector. For the purpose of collection of annual rent for the lands so leased, the Government in para No.7 of G.O. 2 (D) No.364 dated 14.11.1996, instructed the District Collector, Perambalur to fix the annual rent for surface right in respect of poromboke lands. Subsequently, the Government issued revised orders vide Government Letter No. 27826/MMA.2/96-B, Industries Department dated 01.07.1997 directing the District Collector to levy and collect compensation for surface right of the Government poromboke lands as contemplated under Rule 72 of Mineral Concession Rules, 1960. Aggrieved by the revised order passed by the Government on 01.07.1997 in so far as it relates to levy and collection of compensation on poromboke lands under Rule 72 of Mineral Concession Rules, the respondent therein namely Dalmia Cement (Bharat) Limited has filed Revision Application in File No.9/7/98-RCII) under Section 30 of the Mines and Minerals (Regulation and Development) Act, 1957 and Rule 55 of the Mineral Concession Rules, 1960 before the Revisional Authority namely Secretary to Government, Ministry of Mines, Union of India, New Delhi.

5. According to the lessee, the mining leases are within the concept of a lease wherein the interest of the property is transferred by the owner to the lessee, who uses the property as an occupier and pays surface rent as required under Rule 27 (1) (d) of the Mineral Concession Rules, 1960. During the period of lease, the lessee having been given the possession becomes the occupier of the property and the holder of mining lease cannot be made liable to pay additional sum as compensation to the Government especially when the Government is not an occupier of the land after the lease has been granted. According to the lessee, if the lease deed is signed, then the lessee become the

occupier of the surface and they cannot pay compensation to itself. It is further contended that Rule 72 of the Rules does not apply to poromboke lands leased to cement plants for mining limestone. The compensation mentioned in Rule 72 of the Rules relates to the lands belonging to a third party as mentioned in Section 13 (2) (i) of the Mines and Minerals (Regulation and Development) Act. Therefore, providing an extraneous clause in the lease deed is arbitrary and illegal. According to the lessee, the question of surface right will arise only in respect of grant of mining lease after taking the consent of Pattadhar as contemplated under Rule 22 (3) (h) of The Mineral Concession Rules, 1960 and consequently, consent of the Government towards surface rights is not necessary as per proviso to Rule 22 (3) of the Rules. Thus, the proposal to levy compensation for use of surface of Government is wholly unjustified. The interpretation of the Government that as occupier of the poromboke land, they are entitled for compensation under Rule 72 of the Rules will run counter to the grant of lease in terms of Rule 27 (3) and the State Government is not competent to impose any extraneous condition in the lease deed. Therefore, the revision petitioner prayed for allowing the Revision Petition.

6. Countering the Revision Petition, on behalf of the Government, it was contended that Rule 27 (1) (d) relates to collection of surface rent and water rate for the surface areas used for mining operation and Rule 27 (1) (t) specifies the compensation to be paid by the mining leaseholder to the occupier of that surface of the land as provided under Rule 72. Rule 72 (1) is silent with respect to classification of the lands in respect of occupier of the surface area of the land. When the above Rule does not distinguish any particular classification of land for the occupier it also includes poromboke lands. It was further contended on behalf of the State Government that Rule 22 (3) (i) (h) is applicable only to patta lands where mining lease holder has to obtain consent of surface rights over the area. The first proviso to Rule 23 (3) (i) (h) states that no such statement shall be necessary in case of Government lands as the Government is the granting authority for mining lease and the Government themselves will decide on the availability of the government land for mining lease while considering the mining lease application. Therefore, it was contended that there is no need to get prior consent from Government for Government lands while applying for mining lease. The interpretation of the lessee that owner of the land can give consent for mining in an area without giving the surface rights is incorrect because without surface rights for the area, commencing the mining operations in the land is remotely impossible. The conditions stipulated in Rule 72 are not new or of special in nature which require prior approval of the Government of India under Rule 27 (3) of the Rules. The payment

of compensation to the occupier of surface of the land is already covered under Rule 27 (1) (t) of the Rules. Therefore, the Government prayed for dismissal of the Revision Petition.

7. The Revisional Authority, upon considering the rival submissions and on perusal of the records, concluded that the State Government cannot ask the lessee to pay any compensation for using the surface area of State poromboke lands for mining and therefore the condition imposed by the State Government is legally untenable. Aggrieved by the aforesaid order dated 31.03.1999 passed by the Revisional Authority, the State Government has filed WP No. 4373 of 2000.

8. Similar order passed by the Revisional Authority concluding that the State Government cannot ask the lessee to pay any compensation for using the surface area of State poromboke lands for mining is the subject matter of challenge by the State Government in WP Nos. 7896, 7897, 7898, 7899, 7900 and 7901 of 2001, WP Nos. 6958 and 6959 of 2002.

9. Writ Petition Nos. 6487, 6488, 6489 and 6490 of 2005, 4442 and 4443 of 2010 and WP (MD) No. 7057 of 2017 are filed by the lessess of the mining lease. The common grievance of the petitioners/lessees is that they are using the lands leased out to them as an occupier. While so, they cannot be asked to pay any additional compensation to the Tamil Nadu Government when the Government is not the occupier of the lands after the lease is granted and the lease deed is executed. The Government, after executing the lease, cannot demand compensation under Rule 72 of The Mineral Concession Rule. Rule 72 of the said Rule clearly states that the holder of the mining lease shall be liable to pay compensation to the occupier for the surface of the land and in the present case, the lessee company is the occupier of the lands leased out to them and by virtue of the lease deed executed in their favour, they cannot pay compensation to themselves, being the occupier. According to the petitioners/lessees, as per Rule 72, the term 'occupier' refers to the private land holder and such private land owner has to be compensated for loss of alternate land use or other works.

10. The further grievance of the petitioners/lessees is that even though the Revisional Authority has passed final order in their favour holding that the State Government is not justified in demanding compensation for poromboke lands, the State Government has directed the District Collector of the concerned Districts to levy and collect surface rent and on the basis of the same, the Assistant Director of Geology and Mining, Chennai had sent a letter dated 30.09.2004 to the petitioners in WP No. 6487 to 6490 of of 2005 demanding compensation in respect of the lease granted in poromboke land for mining activities.

Challenging the same, WP Nos. 6487 to 6490 of 2005 were filed.

11. In WP Nos. 4442 and 4443 of 2010, the petitioners would contend that the petitioners were granted mining lease by the Government and after expiry of the period of lease, they have applied for second renewal which was also issued in their favour. While conferring renewal of lease, the Government demanded payment of surface rent and water rate which was also paid by the petitioners. However, the Government, while extending the lease, imposed a condition that for surface right over the government poromboke land, the District Collector will fix and collect the compensation amount annually under Rule 72 of Mineral Concession Rules, 1960. Aggrieved by the same, the petitioners have filed a Revision Petition before the Central Government in which final order was passed on 03.03.2000 in Final Order Nos. 31 and 32 of 2000 respectively holding that the State Government is not justified in prescribing such a condition and therefore, set aside the order of the Government. Aggrieved by the same, the Government has also filed Writ Petition Nos. 7898 and 7899 of 2001 and obtained interim stay. While so, during the year 2003, when the petitioners' mining lease was required to be renewed by the Mining Department, the first respondent insisted for payment of surface compensation failing which threatened that the mining lease would not be renewed. In such circumstances, without prejudice to the right of the petitioner, they have paid the amount demanded by the Government. According to the petitioners, the term 'occupier' contained in Rules 27 and 72 of The Mineral Concession Rules is applicable only for compensation payable to a third party pattadhar who is not willing to part with the lands or giving consent, therefore, the same yardstick cannot be applied in respect of poromboke lands. Therefore, according to the petitioners, the compensation mentioned in Rule 72 (2) is payable to the lands belonging to a third party and not to the poromboke lands to which the Government is the paramount title holder. This will be clear from Rule 22 (2) (h) of Mineral Concession Rules where the applicant of a mining lease has to obtain the consent of the owner of the patta lands for commencing the mining operations. However, in case of Poromboke lands, no such consent is necessary inasmuch as the Government is the owner of such lands. The Rule clearly states that it is enough for the lessee to obtain the consent of Pattadhar before entering into his land for mining purpose and such a situation will not arise in case of the government lands. However, if the State Government intends to demand compensation by applying Rule 72, it has to obtain previous approval of the Central Government under Rule 27 (3) of the Mineral Concession Rules, 1960 for levying compensation for the poromboke lands. In any event, Rule 72 does not make any distinction between patta lands and Government poromboke lands and fixation of compensation is

necessary when the pattadhar or owner of the land does not give consent. In such event, in the interest of mineral development, the Government can fix compensation and direct the lessee to pay compensation to the surface right owner. In the case of poromboke land, the Government, as custodian of the land, is very well aware of the purpose for which lease is granted and therefore, after granting mining lease and putting the lessee in possession of the land, the Government cannot seek for compensation for such poromboke lands. Therefore, according to the petitioners, the demand for compensation for surface rights for poromboke lands is illegal, arbitrary and unjust.

12. With identical averments, as aforesaid, the petitioner in WP (MD) No. 7057 of 2017 has filed the writ petition challenging the proceedings dated 22.02.2017 of the District Collector, Karur demanding compensation for surface rights in respect of the government lands under Rule 72 of the Mineral Concession Rules.

13. Mr. Vijay Narayan, learned Advocate General appearing for the State would vehemently contend that the revisional authority erred in holding that the State Government has no right to demand surface rent in respect of government poromboke lands without considering the provisions contained under the Mineral Concession Rules Act. By referring to Section 13 (2) (a) (i) of the 1957 Act, the learned Advocate General would contend that the Central Government is empowered to make rules in respect of minerals with respect to grant of mining lease, collection of fees which includes surface rent, security deposit, fines and other fees. Section 24 A (2) and (3) of the said Act contemplates the rights and liabilities of a holder of prospecting licence or mining lease. As per Section 24 A (2) of the Act, the holder of a reconnaissance permit is liable to pay compensation to the occupier of the surface of the land covered in the lease and the quantum of compensation shall be determined by the Government. Rule 22 (3) (i) (h) of the Mineral Concession Rules, 1960 requires a consent from the owner of the land for renewal of the lease before commencing mining operation. Rule 27 (1) (d) and (t) of The Rules also require the lessee to pay for the surface area used by him for mining operation as may be specified by the State Government in the lease. Further sub-rule (t) of Rule 27 (1) (d) specifically states that the lessee shall pay to the occupier of the surface of the land such compensation as may become payable. The learned Advocate General further submits that Rule 27 (1) (t) and 72 of the Mineral Concession Rules were brought into effect on 10.02.1987 exclusively to deal with the issues relating to payment of compensation by the licensee/lessee to the occupier or owner of the land. The intention of the legislature while enacting these Rules is that compensation has to be paid by the

lessee for the damage that may be caused to the land over which mining operations are carried on. As regards poromboke lands, the Government is the paramount title holder and is in possession and occupation of such lands and therefore, the compensation indicated under the Act and Rules is payable to the Government by the lessee. This is a statutory requirement and no exemption can be made to the lands which are classified as private land or poromboke lands. The lease deed is executed by the Government in respect of both the private lands and poromboke lands and the lessee gets permission by means of a lease deed from the Government subject to certain conditions. However, when demand for compensation was raised by the District Collector, the lease holders have raised their grievance before the Revisional Authority by placing reliance on Rule 72 and contended that they are 'occupier' under the Rule and they are not liable to pay compensation to the Government especially when the Government is adequately compensated by making payment under various other heads.

14. Assailing the order passed by the Revisional Authority, the learned Advocate General would further submit that the Revisional Authority erroneously concluded that compensation payable by a lease holder is only in respect of patta land or private lands owned by the individuals and not for poromboke land. Such a conclusion arrived at by the Revisional Authority is contrary to the Act and Rules mentioned above. There is no classification among the private land and government poromboke lands in the Act and Rules, whether the lands are individual private lands or government poromboke lands. In this context, the learned Advocate General would contend that the Revisional Authority has heavily relied on the decision of the Madhya Pradesh High Court in S.N. Sunderson vs. State of Madhya Pradesh reported in AIR 1963 MP which is not applicable to this case inasmuch as the decision of the Madhya Pradesh High Court was passed by relying upon a decision of the Calcutta High Court passed in the year 1923, much prior to the introduction of the Rules. In any event, the Revisional Authority did not consider that the demand for compensation is made on the basis of the Act and Rules as well as the conditions appended to the lease deed.

15. The learned Advocate General placed reliance on the decision of the Honourable Supreme Court in RE: Special Reference No.1 of 2012 reported in (2012) 9 SCR 311 wherein it was held that in matter pertaining to allocation of natural resources by the State, the validity of the agreement has to be tested on the principle that the entire benefit arising therefrom enures to the State and is not used as a cloak for conferring private benefits on a limited class of persons. In the present case, the lease was executed subject to certain conditions and the lessees, having agreed to such conditions,

have entered into the lease with open eyes and therefore also, they are estopped from questioning the authority of the State Government to demand compensation.

16. The learned Advocate General proceeded to contend that the lessees have contended that the term 'occupier' in the Rules refers to the lessees as they are the ones who occupy the lands for mining purpose and therefore, they need not pay the compensation to themselves. Such an interpretation would lead to ambiguity and defeat the purpose for which the Act and Rules were enacted. He would further contend that the Statute must be read as a whole and not in isolation. The statute should be referred to the context vis-a-vis the other provisions so as to make a consistent enactment of the whole statute relating to the subject matter and to make it a workable instrument. In this context, the learned Advocate General relied on the decision of the Honourable Supreme Court in *M. Pentiah vs. Muddala Veeramallappa and others* (AIR 1961 SC 1107); *Harbhajan Singh vs. Press Council of India* (2002) 3 SCC 722 and contended that a purposive approach has to be employed while interpreting law keeping in mind the purpose sought to be achieved. According to the learned Advocate General, the revenue collected under different heads such as royalty, surface rent etc., cannot be confused with each other and they are different with each other. The payment of royalty should not be equated with compensation. The lessees failed to understand that payment of royalty and surface rent operates in different fields. Surface rent are collected by the Government from lessees of patta lands and also government lands, whereas compensation is collected from the lessees of government lands alone. This distinction has not been properly appreciated by the Revisional Authority resulting in miscarriage of justice and loss of revenue to the exchequer. Further, compensation is intended to be collected when a lessee enters a third party land, without the consent of the owner.

17. The learned Advocate General also contended that Rule 72 relates to collection of annual compensation by the State from the lessees. Rule 73 involves collection of compensation at the time of termination of lease. The distinction is that when at the time of termination of lease, an exercise is to be undertaken to measure the actual damage incurred on the lands and if the value of annual compensation does not cover the same, under Rule 73 compensation is calculated by the State and the same is collected from the lessee. The provisions will make it clear that the occupier/owner has a right to claim compensation and the same will include the lands owned by the State. In fact, the non-payment of such compensation in the present batch of cases from the lessees had hovered to around Rs.640 Crores and it is to be recovered by the State. If the State is prevented from collecting the same, irreparable loss and damage

will enure to the State. Therefore, the learned Advocate General prayed for setting aside the order passed by the Revisional Authority and to allow the writ petitions filed by the State.

18. Mr. Rahul Balaji, learned counsel appearing for the lessees in WP No. 6959 of 2002 etc., would submit that the term 'occupier' is not defined in the Mines and Minerals Development Act and the Mineral Concession Rules at all. In Industrial Supplies (P) Ltd., vs. Union of India, reported in (1980) 4 Supreme Court Cases 341, it was held that an occupier is one who takes or holds possession. In the legal sense, it is a person who is in actual occupation. Further, in the decision in India Cements Ltd., vs. State of Tamil Nadu reported in (1990) 1 Supreme Court Cases 12, it was held that royalty must be paid in respect of mineral removed or consumed at the rate specified in the Second Schedule of the Act. It was also held therein that Mines and Minerals Development Regulation Act was passed by virtue of the power of the Parliament under Entry 54 of List I of the Seventh Schedule. Since the control of mines and development of minerals were taken up by Parliament, the State legislature cannot interpret the provisions in a manner which would allow it greater rights than what is specifically provided. When a right is not specifically provided to the State Government, the interpretation of a provision should be such to promote the object and scope of the Act and by interpretation, such right as is not specifically provided ought not to be read into the statute. It is his contention that no residuary or regulatory power other than what is specifically provided for by Parliament can be claimed by the State Government. In this context, the learned counsel relied on the decision of the Honourable Supreme Court in D.K. Trivedi & sons vs. State of Gujarat, 1986 Supp SCC 20 wherein it was held as follows:-

"39. In a mining lease, the consideration usually moving from the lessee to the lessor is the rent for the area leased (often called surface rent) dead rent and royalty. Since the mining lease confers upon the lessee the right not merely to enjoy the property as under an ordinary lease but also to extract minerals from the land and to appropriate them for his own use or benefit in addition to the usual rent for the area demised, the lessee is required to pay a certain amount in respect of the minerals extracted proportionate to the quantity so extracted. Such payment is called 'royalty'. It may however, be that the mine is not worked properly so as not to yield enough return to the lessor in the shape of royalty. In order to

ensure for the lessor a regular income, whether the mine is worked or not, a fixed amount is provided to be paid to him by the lessee. This is called 'dead rent'. 'Dead rent' is calculated on the basis of the area leased while royalty is calculated on the quantity of minerals extracted or removed. Thus, while dead rent is a fixed return to the lessor, royalty is a return which varies with the quantity of minerals extracted or removed. Since dead rent and royalty are both a return to the lessor in respect of the area leased, looked at from one point of view dead rent can be described as the minimum guaranteed amount of royalty payable to the lessor but calculated on the basis of the area leased and not on the quantity of minerals extracted or removed. In fact, clause (ix) of Rule 3 of the Rajasthan Minor Mineral Concession Rules, 1977, defines 'dead rent' as meaning 'the minimum guaranteed amount of royalty per year payable as per rules or agreement under a mining lease'. Stipulations providing for the lessee's liability to pay surface rent, dead rent and royalty to the lessor are the usual covenants to be found in a mining lease.

19. By referring to this judgment, the learned counsel would contend that by the grant of Mining lease itself, the lessee gets the right not merely to enjoy the property as under an ordinary lease, but to extract the minerals on payment of royalty. Therefore, upon granting of mining lease in respect of government land, it is clear that the right to enjoy the property include the land is specifically provided. Once such right is granted and the lease commences, the lessee becomes the occupier of such land and for such right granted over the surface of the land, surface rent is statutorily fixed and paid. Therefore, whether under Rule 72 of the Mineral Concession Rules, in addition to the Surface rent for the surface rights granted under the mining lease, in addition thereto, compensation is paid to the Government as an occupier. When the lessee gets a right to enter upon the area and carry out mining operations, he is only liable to pay to the occupier of the surface of the land compensation for any loss or damage. While so, it is wholly incomprehensible that the Government, after giving consent for lease also claims rights for compensation as an occupier. He also referred to Part VIII of the lease deed in favour of the petitioners wherein it was only stated that the Government will arrive at compensation to the occupier, who will be a third party. It is his contention that even if there is a condition provided under the lease deed for payment of compensation, such condition must be in consonance with

Statutory Rules. When the conditions stipulated in the lease is inconsistent with the Act and Rules, the Government will not get a right to collect compensation. If the legislature intended that compensation is to be paid to the State as an 'occupier' it would have clearly provided for the same in Section 9A to 9C of the Act. The word 'occupier' is never used. The fact that compensation is payable for agricultural activity and non-agricultural activity would show that it is confined to an occupier who would actually lose livelihood by virtue of losing the occupation of the lands. The claim for compensation made by the government has no basis in law. The Act and the Rules themselves require payment of a security deposit prior to commencement of mining, the damages to the surface/environment is also sufficiently provided under the Mineral Foundation fund. Therefore, at no stretch of imagination it can be said that the Government, as an occupier, would be entitled to a compensation which it would itself fix. The learned counsel therefore prayed for dismissal of the writ petitions filed by the State and to allow the writ petitions of the lessees.

20. Mr. Balaji, learned counsel appearing for the petitioners in WP Nos. 6487 to 6490 of 2005 would contend that the word "Occupier" occurring in Section 24 A (1), Rule 27 (t) and Rule 72 can be inferred to relate only to the lease granted in respect of patta lands and not in respect of the Government lands. The lands to which patta was granted and/or private lands will be in possession and occupation by the respective owner of the land. On the contrary, the lands which are classified as government poromboke will be in owned by the Government as a paramount title holder and the Government alone will be in occupation of such lands. In other words, the Government will be the owner of both surface rights and sub-soil rights so far as the lands classified as poromboke lands are concerned. On the other hand, the lands which are classified as patta lands are concerned, the surface rights will vest with the land owner who will be in possession, occupation and enjoyment of the same, but the sub-soil rights vest only with the government. It is well settled that where public property is being leased for exploitation of natural resources, the Government should be permitted to reap the entire monetary benefits that may accrue or enure out of such contract in which the right of the individual has to be kept apart from being considered. The term 'occupier' mentioned in the Rules can only be treated as the one referable to the lessees to whom mining lease was granted. The surface rent or other rent is being collected by the Stated Government for the damages that had been caused during the course of mining operation. In such event, there may not be any classification for demanding such compensation for private land as well as the lands classified as Government Poromboke land. Admittedly, the damage that may be

caused during the mining operation will be one and the same, in respect of the lands owned by private individuals as well as the one to which the Government is the paramount title holder. In such circumstances, drawing a classification among the private lands as well as poromboke lands for the purpose of payment of compensation is unjust. At no stretch of imagination, it could be presumed that Rule 72 is in respect of Government poromboke lands. The respondents/Government cannot claim surface rent and also compensation for occupation of surface in respect of government lands by misconstruing Rule 72 which deals with surface occupation of patta lands. Therefore, the Government does not have any right or authority either to demand or collect surface compensation in respect of mining leases granted. Even the compensation which were paid by the petitioners without prejudice to their rights has to be refunded together with interest. The learned counsel therefore prayed for dismissal of the writ petitions filed by the State Government.

21. Mr. Ramakrishna Reddy, learned counsel for the petitioner in WP No. 7057 of 2017 would contend that the payment payable to the occupier of the surface of the land as contemplated under Rule 27 (1) (t) of The Mineral Concession Rules, is referable to the payment payable to the occupier of the land viz., Pattadhar. Rule 72 of The Mineral Concession Rules is very clear that it will apply to agricultural lands in which the applicant is not the owner of the said lands. Only in such cases, the lessee has to pay the compensation to the owner of the patta lands, since the consent of the owner/occupier is necessary. In respect of government lands, the lessee will himself become the occupier of the surface. The agricultural lands and non-agricultural lands mentioned in Rule 72 purely relates to patta lands and not to the Government lands. Once the State Government leases out the lands, which are classified as poromboke lands, the lessee will automatically become the occupier of the surface land and as such there is no question of any additional compensation for the surface in addition to the surface rent contemplated under Rule 27 (1) (d). The surface rent contemplated under Rule 27 (1) (d) is for use of the surface of the land, whereas the compensation contemplated under Rule 27 (1) (t) relates to the occupier of the surface of the land. The earlier one is for usage of the surface whereas the later is for occupation. At no stretch of imagination, the compensation contemplated under Rule 72 can be construed as compensation in respect of mining lease granted to government poromboke lands. The learned counsel therefore prayed for allowing WP No. 7057 of 2017 as prayed for.

22. Heard the counsel on either side and perused the materials placed on record. Having considered the rival submission, the question which arise for consideration in these

writ petitions is as to whether the Government is empowered to collect and levy annual compensation for surface right in respect of the Government Porombomke lands from the occupier of the lands. For the purpose of deciding the aforesaid question, it is inevitable to refer to certain relevant provisions of the Act and Rules and they are re-produced hereunder:-

The Mines and Minerals (Development and Regulation) Act, 1957:

13. Power of Central Government to make rules in respect of minerals.- (1) The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of [reconnaissance permits, prospecting licences and mining leases] in respect of minerals and for purposes connected therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(i) the fixing and collection of fees for 3 [reconnaissance permits, prospecting licences or mining leases] surface rent, security deposit, fines, other fees or charges and the time within which and the manner in which the dead rent or royalty shall be payable;

(j) the manner in which rights of third parties may be protected (whether by payment of compensation or otherwise) in cases where any such party may be prejudicially affected by reason of any [reconnaissance, prospecting or mining operations];

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 9 [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.]

The Mineral Concession Rules:

22. Applications for grant of mining leases :- (1) An application for the grant of a mining lease in respect of land in which the minerals vest in the Government shall be made to the State Government in Form I through such officer or authority as the State Government may specify in this behalf.

(d) A valid clearance certificate in the form prescribed by the State Government, of payment of mining dues, such as royalty or dead rent and surface rent payable under the Act or the rules made thereunder, from that Government or any officer or authority authorised by that Government in this behalf :

(4B) The Central Government or the State Government shall dispose of the application for approval of the mining plan within a period of ninety days from the date of receiving of such application:

Provided that the aforesaid period of ninety days shall be applicable only if the mining plan is complete in all respects, and in case of any modifications subsequently suggested by the Central Government or the State Government, as the case may be, after the initial submission of the mining plan for approval, the said period shall be applicable from the date on which such modifications are

carried out and submitted afresh to the Central Government or the State Government, as the case may be.] q(5) The Mining Plan shall incorporate:-

(i) the plan of the lease hold area showing the nature and extent of the mineral body, spot or spots where the mining operations are proposed to be based on the prospecting data gathered by the applicant or any other person];

(ii) details of the geology and lithology of the area including mineral reserves of the area;

(iii) the extent of manual mining or mining by the use of machinery and mechanical devices;

27. Conditions :- (1) Every mining lease shall be subject to the following conditions:-

(d) the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent and water rate at such rate, not exceeding the land revenue, water and cesses assessable on the land, as may be specified by the state Government in the lease;

(t) the lessee shall pay to the occupier of the surface of the land such compensation as may become payable under these rules;

(2) (a) the time-limit, mode and place of payment of rents and royalties;

CHAPTER X

Rule 72. Payment of compensation to owner of surface rights etc: - (1) The holder of a reconnaissance permit or prospecting licence or mining lease shall be liable to pay to the occupier of the surface of the land over which he holds the reconnaissance permit or prospecting licence or mining lease, as the case may be, such annual compensation as may be determined by an officer appointed by the State Government by notification in this behalf in the manner provided in subrules (2) to (4).

(2) In the case of agricultural land, the amount of annual compensation shall be worked out on the basis of the average annual net income from the

cultivation of similar land for the previous three years.

(3) In the case of non-agricultural land, the amount of annual compensation shall be worked out on the basis of average annual letting value of similar land for the previous three years.

(4) The annual compensation referred to in sub-rule (1) shall be payable on or before such date as may be specified by the State Government in this behalf.

Rule 73. Assessment of compensation for damage:- (1) After the termination of a reconnaissance permit or a prospecting licence or a mining lease, the State Government shall assess the damage, if any, done to the land by the reconnaissance or prospecting or mining operations and shall determine the amount of compensation payable by the permit holder or licensee or the lessee as the case may be, to the occupier of the surface land.

(2) Every such assessment shall be made within a period of one year from the date of termination of the [reconnaissance permit or prospecting licence or mining lease] and shall be carried out by an officer appointed by the State Government by notification in this behalf.

23. The Mines and Minerals (Regulation and Development) Act, 1957 provides for regulation of the mines and development of minerals under the control of the Union Government. The adverse effects of mining operation on ecology and environment have increasingly come to notice of the authorities concerned. In many cases, mining operations have been undertaken without proper prospecting resulting in unscientific mining. The Government also constituted several committees to impress upon the need for amending certain provisions of the Act with an intention to arrest the bottle-necks inter alia for speedy development of mineral based industries. With this view in mind, the Government, while granting mining lease for limestone and other major minerals in Government Poromboke lands, imposed conditions for levy and collection of annual compensation for surface right by the District Collector. While the lessees in the present batch of cases have no objection for payment of compensation in respect of private lands owned by individual

pattadhars, they resist such demand made by the Government in respect of government poromboke lands on the ground that when they themselves are the occupier of the government poromboke lands, they cannot be called upon to pay compensation to themselves. In other words, according to the lessees, the payment of compensation demanded by the Government in respect of Government Poromboke lands is illegal and unsustainable inasmuch as government is already in receipt of royalty, lease rent etc., besides that from the date of execution of mining lease in their favour, they have taken possession and are in occupation of the government poromboke lands. While so, demand for payment of compensation for usage of the surface in respect of Government poromboke lands is uncalled for.

24. It is evident that Section 13 of The Act empowers the Central Government may to make rules for regulating the grant of permits, prospecting licences and mining leases in respect of minerals and for purposes connected therewith. Section 13 lays down several procedural aspects with respect to grant of mining lease, the person to whom such lease shall be granted, the period to which licence or lease shall be granted, fixing and collection of fee for such lease, including surface rent, security deposit, fines, other fees or charges etc., These conditions are largely intended to protect the ecology from being damaged and in the event of damage caused by the lessee, they are required to compensate the extent to which such damage has been caused during the mining operation. Under the Act, while Section 13 empowers the Government to impose certain conditions with a view to regulate the mining operation, it also provides certain rights and liabilities to the lessees under Section 24A of the Act. Section 24A deals with the right of the lessee to enter into the mining lease to carry out the mining operations. The proviso to Section 24A specifies that the lessee, in whose favour mining lease has been granted, shall enter into the lease hold premises with the consent of the occupier. If, under any circumstances the lessee enters into the lease hold premises without the consent of the occupier, such consent shall be obtained by giving a notice in writing about the lease granted in his favour. Sub-section (2) of Section 24 further provides that a mining lease holder shall be liable to pay compensation to the occupier of the surface of the land for any loss or damage which is likely to arise or has arisen as a consequence of mining operation. It is to be emphatically stated here that there is no reference made to, or any classification prescribed, among the lessees of private land or government poromboke lands. The intention of the legislature in requiring the lease holder to pay compensation is for the damage that is caused to the land. It is needless to mention that during mining operation, both in respect of private land as well as patta land, damage will be caused to the leased land as

also to the ecology and that is the reason why the legislators have intended to collect annual compensation for the damage. Therefore, for the purpose of collection of annual compensation, there cannot be any classification or rather distinction made between the private land or government poromboke land. Even Rule 72 of The Mineral Concession Rules is silent with respect to the private land held by Pattadhar or the lands which are classified as Poromboke lands. Similarly, Rule 9-A, which deals with dead rent to be paid by the lessee. Rule 9-B relates to constitution of District Mineral Foundation to which the compensation paid by the lessee towards royalty in terms of the Second Schedule of the Act are remitted. Rule 9-C of the relates to establishment of National Mining Exploration Trust to which the royalty paid by the lessee in terms of Second Schedule of the Act is remitted. Even in Rule 9A to 9C, the word 'occupier' is never used or there is no classification of the lands from which compensation is required to be received for the damage caused to the ecology. Therefore, a harmonious interpretation is required which would ensure that the object with which the Act and Rules have been framed are achieved with. It is well settled that a Court of law would interpret a provision which would help in sustaining the validity of law by applying the doctrine of reasonable construction than resorting to an interpretation which would lead to a situation where the provision would be rendered unsustainable and ultravires the construction. Thus, construction of Rule or procedure, which would promote justice has to be preferred as against the one that would result in miscarriage of justice. Therefore, if the Rule of harmonious construction is applied, I am of the view that in the absence of the word 'occupier' occurring in the Act or the Rules, it has to be construed that the compensation payable by the lessee cannot be restricted or limited to the private lands, but it also include the lands owned by the Government.

25. It is also required to be observed that in cases of this nature, where the natural resources are exploited by private individuals for gain, the entire pecuniary benefits arising thereof must be allotted to the State exchequer for being utilised for the welfare and well being of the State through the Trust established under Rule 9-B and 9-C of the Rules.

26. Further, as admitted by the writ petitioners/lessees the term occupier is not defined anywhere in the Act and Rules with reference to the holder of a mining lease, whether in respect of patta lands or government poromboke lands. However, it is vehemently contended by the petitioners that the moment the lease is granted in their favour, they enter into the lease hold lands and become the occupier of those lands, therefore,

they need not pay the annual compensation payable to the occupier of the land, because they themselves become the occupier of the land and they need not pay compensation for themselves. This submission made on behalf of the petitioners cannot be countenanced. The payment of annual compensation is intended to compensate the nature and extent of damage caused to the lands to which mining operation is permitted by the Government. The damage that is likely to be caused to the private land as well as the land classified as Government Poromboke land is certain. Furthermore, in respect of the Government Poromboke land, the Government is the paramount title holder of the lands and therefore, as a owner of such land, the Government is entitled for receipt of compensation for the proportionate damage that the mining operation may result in. Therefore, as per Rule 72 of the Mineral Mineral Concession Rules, the holders of mining lease are liable to remit annual compensation for surface rights in respect of mining leases granted in government poromboke lands.

27. I also wish to observe that it is possible to obtain mining lease even in respect of private land, without the consent of the real owner of such land, however, before carrying out mining operation or entering into the land or occupying the leased hold land, the consent of the land owner is imperative and mandatory as per the proviso to Rule 24-A. On the basis of such consent by the land owner, the State Government will confer mining lease over the private land. The reason being the owner of the land must be aware of the perils and/or damage that may be occasioned to his lands due to the mining operation. The same yardstick has to be applied even in the case of government poromboke lands. It is needless to mention that the damage that may be caused to the land owned by private individual due to mining operation will be the same in case of government poromboke lands. Therefore, apart from collecting royalty, surface rent or other statutory charges, the government, in my opinion, is wholly justified in demanding and levying annual compensation payable by the lessee.

28. It is also to be noted that the lease deed entered into between the lessees and the Government contains certain clause, which includes payment of compensation as contemplated under Rule 72 in respect of Government poromboke lands. When the the lessees have signed the lease deed with their eyes wide open, they are estopped from questioning the contents of the lease deed after it's execution. The lessees have subjected themselves to the conditions incorporated in the lease deed, while so, they cannot turn around and contend that the conditions incorporated under the lease deed are beyond the statutory provisions of the Act and Rule or it is inconsistent with the Act and Rules. In some cases, admittedly, the lessees

have also paid the compensation amount without prejudice to their right to prosecute the present writ petitions. Be that as it may, it is well settled that after entering into the arena, the rules of the games cannot be changed. This principle will apply to the facts of the present case. The petitioners have got the lease deed executed containing the clause for payment of compensation in respect of government poromboke lands. However, after commencing the mining operation, the lessees cannot be heard to contend that such compensation is payable only to the private lands owned by individuals and not in respect of government poromboke lands as they are the occupier of such lands. It is needless to mention that the Government is the paramount title holder of the government poromboke lands and for the damage that may be caused to such lands during the mining operation or damage to the ecology, the Government is always has a vested right to seek to collect such compensation, as an owner and as an occupier from the lessees. Above all, Rule 27 (1) (d) empowers the State to collect surface rent and water rate for the surface areas used for mining operation. Rule 27 (1) (t) specifies the compensation to be paid by the mining leaseholder to the occupier towards the surface of the land. Here again, there is no reference made to the lands of the private individuals and the one classified as Government poromboke lands to which mining lease are granted. In the absence of the same, a purposive interpretation of the Act and Rules must be to hold that the State Government is entitled to levy and collect annual compensation from the lessees towards the damages caused to the surface of the Government poromboke lands.

29. The Revisional Authority, whose order is questioned in some of the writ petitions, has concluded that what is sought to be protected by framing the Rules is the surface right of a private land holder has to be compensated as such land owner might be deprived of putting such land for any other alternative purpose. I am unable to accept such a conclusion arrived at by the Revisional Authority. When the private land of an individual, which was leased out, will be subjected to damage warranting payment of compensation for depriving the land owner to put it to any other alternative use, the same yardstick has to be equally applied to the lands which are classified as government poromboke lands. Equally, the Government also will be deprived of using the land for any other alternative use due to intense mining of the land. Therefore, reasoning assigned by the revisional authority that by reason of damage caused to the surface of the government poromboke land, no third party will be prejudicially affected cannot be sustained. Therefore, the order passed by the Revisional Authority, which are impugned in the writ petitions filed by the State are not sustainable and they are liable to be set aside.

30. In the light of the above, the WP No. 4373 of 2000, WP Nos.7896, 7897, 7898, 7899, 7900 and 7901 of 2001 as well as WP Nos.6958 and 6959 of 2002 filed by the State Government are allowed. The other writ petitions filed by the lessees Writ Petition Nos. 6487, 6488, 6489 and 6490 of 2005, Writ Petition Nos.4442 and 4443 of 2010 and WP (MD) No.7057 of 2017 are dismissed. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsh/pri

To

1. The Secretary to Government,
Ministry of Mines, Union of India, New Delhi.
2. State of Tamil Nadu,
Rep.By The Secretary to Government,
Department Secretariat, Fort St.George, Chennai-9.
3. The Union of India,
Rep.By The Secretary to Government,
Ministry of Mines, New Delhi-1.
4. The Assistant Director of Geology
and Mining, Dinndigul.
5. The Commissioner of Geology &
Mining Industrial Estate, Guindy, Chennai.
6. The District Collector,
Perambalur District, Perambalur.
7. The District Collector,
Karur District, Karur.

+4ccs to Mr.T.Balaji, Advocate, S.R.No.97516 to 97519
+1cc to Mr.B.K.Girish Neelakantan, Advocate, S.R.No.97135
+10ccs to Mr.R.Parthasarathy, Advocate in sr.no.97709

+5ccs to Mr.Mr.S.Ramakrishna Reddy,
Advocate in sr.96390 (02.12.2019)

WP.No.4373 of 2000 etc., batch

RJI(CO)
CS/27/11/2019