IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MARCH, 2020

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE ASHOK S. KINAGI

WRIT PETITION NO. 31973 OF 2019 (GM-MMS)

BETWEEN:

SMT. G. S. CHITRA NAGARAJ
WIDOW OF (LATE) A.N. NAGARAJ
AGED ABOUT 52 YEARS
R/AT BETTAMAKKI
BHOOTARAYANKATTE
SIRAVINKERE
TIRTHAHALLI POST – 577 432
SHIVAMOGGA DISTRICT

... PETITIONER

(BY SRI R. G. KOLLE, ADVOCATE)

AND:

1. STATE OF KARNATAKA
   REP. BY ITS CHIEF SECRETARY
   VIDHAN SOUDHA
   BENGALURU – 560 001

2. THE SECRETARY TO GOVERNMENT
   DEPARTMENT OF COMMERCE & INDUSTRIES
   VIKAS SOUDHA
   BENGALURU – 560 001

3. THE DIRECTOR AND COMMISSIONER
   DEPARTMENT OF MINES & GEOLOGY
   KHANIJA BHAVAN
   RACE COURSE ROAD
   BENGALURU – 560 001

4. THE SENIOR GEOLOGIST
   DEPARTMENT OF MINES & GEOLOGY
   SHIVAMOGGA – 577 201

5. THE DEPUTY COMMISSIONER
   DC OFFICE COMPOUND
   SHIVAMOGGA – 577 201

6. THE DEPUTY CONSERVATOR OF FORESTS
   OFFICE OF THE DCF, FOREST DEPARTMENT
   SHIVAMOGGA – 577 201

7. THE ASSISTANT CONSERVATOR OF FORESTS
   OFFICE OF THE ACF, FOREST DEPARTMENT
   THIRTHAHALLI
   SHIVAMOGGA – 577 432

8. THE RANGE FOREST OFFICER
   OFFICE OF THE ACF, FOREST DEPARTMENT
   THIRTHAHALLI
   SHIVAMOGGA DISTRICT – 577 432

... RESPONDENTS

(BY SRI V. G. BHANUPRAKASH, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE 4TH RESPONDENT SENIOR GEOLOGIST AND COMPETENT AUTHORITY TO PASS SUITABLE ORDERS OF "DEEMED EXTENSION", IN RESPECT OF QUARRY LEASES NO.739 & 741 TO EXTRACT ORDINARY BUILDING STONES, OVER AN AREA OF 04.00 ACRES & 06.20 ACRES IN GOVERNMENT LAND AT SY.NO.16 OF SURALIBALE BAILU VILLAGE IN TIRTHAHALLI TALUKA, SHIVAMOGA DISTRICT PRODUCED AT ANNEXURE – J & K RESPECTIVELY VALID FOR A PERIOD OF 20 YEARS FROM THE DATE OF ORIGINAL GRANT EXCLUDING LAPSED OR UNSPENT PERIOD IN TERMS OF RULE 8-A (2) & (4) AND DECISION DELIVERED BY HON'BLE SUPREME COURT IN NIRMALA BEN'S CASE REPORTED IN (2016) 9 SCC 240 PRODUCED AT ANNEXURE-S BY QUASHING

OR SETTING ASIDE TWO LETTERS DATED 09.07.2019 ISSUED BY 6TH RESPONDENT DCF PRODUCED AT ANNEXURE-A & B RESPECTIVELY AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, ***CHIEF JUSTICE*** MADE THE FOLLOWING:

ORDER

On the last date, the submissions were substantially heard.

2. The petitioner is seeking deemed extension under the provisions of sub-rule (4) of Rule 8-A of the Karnataka Minor Mineral Concession Rules, 1994 (for short 'the said Rules') as amended on 12th August 2016. There are two conditions precedent for the applicability of sub-rule (4) of Rule 8-A of the said Rules. The first condition is that all the terms and conditions of the lease must be complied with by the lessee and the second condition is that the renewal application for the expired lease must be made by the lessee within the time period required for filing the renewal application.

3. On instructions, the learned Additional Government Advocate does not dispute that in this case, both the conditions have been satisfied. His further contention is

that in view of Section 2 of the Forest (Conservation) Act, 1980, the petitioner is not entitled to carry out the quarrying operations. As far as this contention is concerned, we need not go into it at this stage inasmuch as the only issue before the Court is whether the petitioner is entitled to deemed extension under sub-rule (4) of Rule 8-A.

4. As both the conditions incorporated under sub-rule (4) of Rule 8-A have been fulfilled by the petitioner, the respondents will have to formally grant deemed extension under sub-rule (4) of Rule 8-A by issuing necessary order and by executing a lease deed. It is not necessary for us in this petition to go into the question whether by virtue of Section 2 of the Forest (Conservation) Act, 1980 the petitioner is not entitled to carry out the quarrying operation. The said issue is kept open.

5. Accordingly, we pass the following order:

(i) We direct the respondents to complete the process of grant of deemed extension in accordance with sub-rule (4) of Rule 8-A of the said Rules by issuing necessary order and by

executing a necessary lease deed within a maximum period of two months from today;

(ii) By keeping open the issue of applicability of Section 2 of the Forest (Conservation) Act, 1980, the petition is disposed of with the above directions.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

SN