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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 30.04.2025

Pronounced on : 10.09.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WA.Nos.1228, 312, 1291, 310, 313, 314 & 315 of 2023 and
WA.Nos.432, 623, 433, 862, 757 & 624 of 2020 and
WA.Nos.587, 1148, 265 & 270 of 2022 and
WA.Nos.182 & 184 of 2021

and

WP.Nos.14229, 14221, 2686 & 14232 of 2021, 2636 of 2017, 24188 of 2013,
4341 of 2024, 2517 of 2018 and 13760 of 2025

and

CMP.Nos.3199, 3190, 12864, 3113, 12436, 3116 & 3215 of 2023 and
CMP.Nos.10041, 6643, 6639, 10719, 10720, 8603 & 8604 of 2020 and
CMP.No.24139 of 2024 and CMP.Nos.848 & 851 of 2021 and
CMP.Nos.4181 & 7216 of 2022

and

WMP.Nos.4673, 4680, 7208, 4675 & 4677 of 2024 and
WMP.Nos.15143, 3016, 15126, 15128, 15139, 15141 & 15144 of 2021 and
WMP.Nos.21351 & 19282 of 2019 and
WMP.Nos.3072, 3071 & 3070 of 2018 and
WMP.No.2588 of 2017 and
WMP.Nos.15456, 15455 & 15454 of 2025

and

W.P.(MD)Nos.10012, 10014, 10013 & 10015 of 2025

and

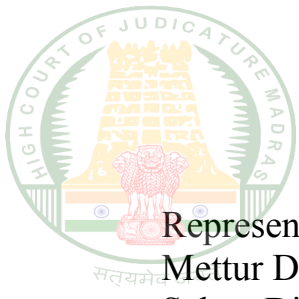
WMP(MD)Nos.7465, 7451, 7471, 7469, 7463, 7462, 7461, 7460, 7459, 7464,
7458, 7457, 7454, 7468, 7467 & 7466 of 2025

W.A.No. 1228 of 2023:

Vedanta Limited

(the successor-in-interest of erstwhile

The Madras Aluminium Company Limited)



Represented by Location Head, Sridhar Subramanian
Mettur Dam,
Salem District 636 402.

.. Appellant

VS

1.State of Tamil Nadu
Through its Secretary
Mines and Minerals Department
Fort St.George, Chennai 600 009.

2.The District Collector,
Salem District,
Tamil Nadu.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent to set aside order dated
15.11.2022 made in W.P.No.24085 of 2017 on the file of this Court.

W.A.No./W.P.No.	For Appellants/Petitioners	For Respondents
W.A.No.587 of 2022, 862 of 2020 and W.P.No.2636 of 2017	Mr.R.Sankara Narayanan, Senior Counsel Mr.Srinath Sridevan, Senior Counsel for Mr.AR.Ramanathan	
W.A.No.24188 of 2013	Mr.A.Saravanan	
W.A.Nos.310 to 314 of 2023	Mr.M.S.Krishnan, Senior Counsel for Mr.T.Balaji	
W.P.No.2686 of 2021	Mr.K.Ramakrishna Reddy	
W.A.Nos.182, 184 of 2021, 432 of 2020, 265 of 2022, 270 of 2022,757 of	Mr.Rahul Balaji Mr.Satish Parasaran, Senior Counsel for	Mr.AR.L.Sundaresan, Additional Solicitor General assisted by Ms.V.Sudha,



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2020 and 433 of 2020 W.P.No.2636 of 2017, 2686 of 2021 and 587 of 2022	Mr.Rahul Balaji (W.A.Nos.432, 757 of 2020)	Standing Counsel for R2
W.A.Nos.623 and 624 of 2020	Mr.Satish Parasaran, Senior Counsel for Mr.Rahul Balaji	Mr.AR.L.Sundaresan, Additional Solicitor General assisted by Mr.A.Kumaraguru, Senior Panel Counsel – R2
W.A.No.1228 of 2023	Mr.Rahul Balaji	Mr.P.Wilson, Senior Counsel assisted by Mr.E.Vijay Anand, Additional Government Pleader and Mr.B.Vijay - R1
W.A.Nos.182 of 2021, 184 of 2021, 432, 433 of 2020		Mr.P.Wilson, Senior Counsel assisted by Mr.E.Vijay Anand, Additional Government Pleader and Mr.B.Vijay - R1 & R2
W.P.No.14232 of 2021 (all respondents), W.A.No.1148 of 2022 – R1, W.A.No.265 of 2022 – R1, R3 and R4, W.A.No.270 of 2022 – R1, R2 & R4, W.A.No.310 of 2023 – R1 & R3, W.P.No.24188 of 2013 – R1 to R3, W.A.No.313 of 2023 – R1 and R3, W.P.No.2517 of 2018 – R1 and R2,	Mr.Rahul Balaji (W.A.No.4341 of 2024, 1291 of 2023, 1148, 265, 270 of 2022, W.P.Nos.14229, 14232, 14221 of 2021, 2517 of 2018, 13760 of 2025 W.P.(MD) Nos.10012 to 10015 of 2025)	Mr.P.Wilson, Senior Counsel assisted by Mr.E.Vijay Anand, Additional Government Pleader and Mr.B.Vijay



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W.A.Nos.1228 of 2023 etc. b2



W.A.No.862 of
2020 – R1 & R3,
W.P.No.14221 of
2021 – R1 to R3,
W.P.No.14229 of
2021 – R1 to R3,
W.P.No.13760 of
2025 – R1 to R3,
W.P.No.2636 of
2017 - R1 to R5,
W.P.No.2686 of
2021 – R2 and R3,
W.A.No.1291 of
2023 – R1 & R2,
W.A.No.587 of
2022 – R1, R3 &
R4, W.A.No.623 of
2020 – R1,
W.A.Nos.312 &
314 of 2023 – R1
& R3, W.A.No.315
of 2023 – R2 and
R3, W.A.No.757 of
2020 – R1,
W.P.No.4341 of
2024 – R1 to R4,
W.P.(MD)
Nos.10012 to
10015 of 2025 – all
respondents



COMMON JUDGMENT

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(Per :- Dr. ANITA SUMANTH.,J)

This common order disposes 32 matters, 19 Writ Appeals and 13 Writ Petitions, nine pertaining to the Principal seat and four pertaining to the Madurai Bench.

2. The Writ Appeals challenge various orders of the Writ Court, the first of which has been passed in the case of *State of Tamil Nadu and others V. Dalmia Cements (Bharath) Ltd. and others*¹. In all the writ petitions, the prayers were either for Writs of Certiorari or Certiorarified Mandamus challenging the demands raised by the respondents under the provisions of Section 72 of the Mineral Concession Rules, 1960 (in short 'Rules') in relation to levy of surface compensation to the State, in respect of the mines operated by the appellants/petitioners.

3. In all cases, it is the private party/lessee, which is the petitioner/appellant before us, and by and large, the State has been arrayed as the first respondent and the Revenue authorities of the respective Districts have been arrayed as the subsequent respondents.

4. The detailed submissions of Mr.R.Sankara Narayanan and Mr.Srinath Sridevan, learned Senior Counsel, both appearing for Mr.AR.Ramanathan, Mr.M.S.Krishnan, learned Senior Counsel appearing for Mr.T.Balaji, Mr.Satish

¹W.P.Nos.4373 of 2000 dated 20.11.2019



Parasaran, learned Senior Counsel appearing for Mr.Rahul Balaji and Mr.K.Ramakrishna Reddy, all speaking for the petitioners/appellants are summarised in the following paragraphs.

5. The appellants/petitioners have been leased lands for exploitation of minerals, such as Bauxite and limestone. They are subject to various levies under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (in short 'Act'), being Royalty under Section 9, Dead Rent under Section 9-A and remittance to the District Mineral Foundation under Section 9-B, and National Mineral Exploration Trust under Section 9-C.

6. Section 13 provides for the framing of Rules and clauses (i) and (j) of Section 13(2) provide for the payment of compensation only in the case of third parties and not to the Government.

7. According to the appellants/petitioners there are two kinds of leases that are executed, one with private parties and the second with the State. The procedure envisaged for execution of leases in both cases is different, and only in the case of a private patta holder, will include an agreement with the occupier of that land as well. Taking us in detail through the scheme of the Act and Rules, the appellants dilate upon Rule 72 which is the subject matter of interpretation in the present Writ Appeals/ Writ Petitions.

8. They point out that this Rule deals with the payment of compensation to the owner of surface rights. Thus, and according to them, the Rule relates

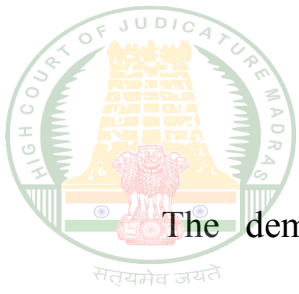


only to private patta lands and not Government lands. The Rule is specific to an occupier of surface of the land and since the Government cannot be envisaged as the occupier of its own land, Rule 72, evidently, is not intended to apply to the Government at all. This is the first limb of argument on behalf of the appellants/petitioners.

9. This argument is countered by Mr.P.Wilson, learned Senior Counsel assisted by Mr.E.Vijay Anand, learned Additional Government Pleader and Mr.B.Vijay, learned counsel for the State, who states that no such distinction is envisaged between poramboke and patta lands. A reading of the provisions would make it very clear that the charges thereunder, for Royalty, Dead Rent, Water charges, Surface Rent and Compensation, are envisaged in the case of all lessors, be it the State or private parties.

10. In fact, accepting this argument would lead to discrimination qua the State, which certainly cannot be the intention of the Statute. Mr.Wilson would argue that the enactment has to be read as a whole and the appellants/petitioners should not be permitted to cherry-pick the provisions as this would lead to a distorted interpretation of the Statute.

11. An alternate contention raised by the appellants/petitioners in all cases is that the computation of the compensation has absolutely no basis. Rule 72(2) and (3) provide for the manner of computation of the annual compensation in the case of agricultural and non-agricultural lands respectively.



The demands raised in the present case make it clear that no proper methodology has been followed, and, in any event, the method stipulated under the Statute has been given a go-by.

12. Our attention is taken to various Government Orders issued over the years to illustrate that even the authorities had had no clarity in this regard and it is only by way of a recent Government Order that the authorities have stipulated a tentative method of computation of the compensation. Since the Statute and Rules are very clear on how the compensation is to be computed, there can be no two opinions on the methodology to be adopted.

13. Mr.Wilson, for his part, would defend the computation, making a comparison with the methodology set out under the Rent Control Act. He would argue that the computation is not arbitrary and some rationale has been followed. In matters such as these, he emphasizes that only the decision-making process could be challenged and not the decision itself. Hence, there is no avenue for the appellants/petitioners to challenge the demands as there is no legal infirmity that has been made out in the decision-making process.

14. To this, the appellants/petitioners would highlight that not even an opportunity of hearing was granted to them, and hence, the impugned demands are also in gross violation of the principles of natural justice.

15. This submission has really not been countered by the Respondents, and no records have been produced to establish that the appellants/petitioners



have been heard prior to raising of the impugned demands.

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16. Incidentally, Mr.Wilson will also draw our attention to an order dated 04.01.2023 passed in W.P.Nos.30561 to 30564 of 2012 by one of us (Dr.Anita Sumanth,J), which, according to him, remains unchallenged. The text of that order is as follows:

The State of Tamil Nadu has challenged orders passed by Secretary to Government, Ministry of Mines / R2 in all W.P.s in terms of Rule 72 of the Mineral Concession Rules, 1960. This issue has been decided in a batch of writ petitions wherein also the petitioner is the State of Tamil Nadu, by order of this Court in W.P.No.4373 of 2000 and Batch on 20.11.2019, in favour of the State.

2.At para 29 of the order, the learned Single Judge states as follows:

“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.”

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3. Consequent upon the order passed by the Secretary to Government, demands had also been raised on several license holders which have come to be challenged by them by way of writ petitions. In one such writ petition filed by Madras Cements Limited in W.P.No.28975 of 2011, the ratio of order dated 20.11.2019 has been applied, and the demand was confirmed. The license holders are stated to be before the Division Bench by way of writ appeal. Hence, impugned order dated 20.10.2011 is quashed and these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

17. The Registry informs us that the aforesaid order has been challenged in two instances and are pending at condone delay stage (CMP Nos.9717 and 9719 of 2024 in W.A.SR.Nos.50077 and 50078 of 2024).

18. Mr.AR.L.Sundaresan, learned Additional Solicitor General, assisted by Ms.V.Sudha, learned Standing Counsel and Mr.A.Kumaraguru, learned Senior Panel Counsel appearing for the Union have advanced brief submissions, sailing with, and in support of the appellants/petitioners. They would point out that both the Act as well as the Rules are Central Legislations and hence it is the interpretation of the Centre of those provisions, that should prevail.

19. Since it is the State Government that has issued the licence, it is bound by the conditions enumerated under that licence alone and there is no justification for the levy of compensation under Rule 73 by the State. The aforesaid view has been taken by the Revisional Authority exercising power Section 30 of the Act in the case of some of the Petitioners, and the Union



stands by its decision in those orders.

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20. On one of the earlier hearings, the First Bench of this Court, before which this batch of matters had been listed, had sought information/clarification from the Centre as to the number of States where surface compensation was being demanded by the State from the lessees.

21. Three affidavits have been filed, two dated 11.06.2024 and 30.04.2025 by ACC Limited, appellant in W.A.Nos.862 of 2020 and 587 of 2022 and W.P.Nos.2636 of 2017 and 8619 of 2025, and one by Dalmia Cement (Bharat) Ltd., appellant in W.A.No.182 of 2021 and W.P.No.7896 of 2001 dated Nil June, 2022, to the effect that the States of Rajasthan, Madhya Pradesh, Maharashtra, Odisha, Jharkhand, Chhattisgarh, Andhra Pradesh and Karnataka, where also they operate and manage mines with licence agreements similar to the present instances, have not demanded surface compensation in respect of Government lands.

22. Though this Court was hopeful that the Union would provide complete information in this regard, in relation to other States as well, the Union has merely stated that it is not in possession of such information. Hence, as on date, there are eight States/Union Territories that do not demand surface compensation from the lessees.

23. Mr.Wilson would have the last word, objecting on two counts to Mr.Sundaresan's reliance upon the order of the Revisional Authority. Firstly,



he would state that the Revisional Authority has misinterpreted the provisions of the Act and the Rules. Secondly, he states that there is no merit in the Revisional Authority defending his own order, and the same could only be tested either by a superior authority or a Constitutional Court.

24. Reliance has been placed by the appellants on the following decisions:

(Mr.M.S.Krishnan, Senior Counsel)

1. *Bimal Chandra Banerjee v. State of Madhya Pradesh etc.*,²
2. *Sukhdev Singh and Others v. Bhagatram Sardar Singh Raghavanshi and another*³
3. *State of Karnataka and Another v. H.Ganesh Kamath and others*⁴
4. *General Officer Commanding-in-Chief and Another v. Dr.Subhash Chandra Yadav and Another*⁵
5. *Additional District Magistrate (Rev.) Delhi Admn. v Siri Ram*⁶
6. *St.Johns Teachers Training Institute v. Regional Director, National Council for Teacher Education and Another*⁷
7. *Kerala State Electricity Board and Others v Thomas Joseph Alias Thomas M.J. and others*⁸
8. *M/s.Misrilall Jain & Sons & Anr. v. State of Jharkhand &Ors.*⁹
9. *Raichurmatham Prabhakar and Another v. Rawatmal Dugar*¹⁰
10. *Union of India v. Sankalchand Himatlal Sheth and Another*¹¹
11. *Delhi Airtech Services Private Limited and Another v. State of Uttar Pradesh and another*¹²
12. *Reserve Bank of India and Others v. Peerless General Finance and Investment Company Ltd. and Another*¹³

²1970 (2) SCC 467

³(1975) 1 SCC 421

⁴(1983) 2 SCC 402

⁵(1988) 2 SCC 351

⁶(2000) 5 SCC 451

⁷(2003) 3 SCC 321

⁸(2023) 11 SCC 700

⁹2011 SCC OnLineJhar 858

¹⁰(2004) 4 SCC 766

¹¹(1977) 4 SCC 193

¹²(2011) 9 SCC 354

¹³(1996) 1 SCC 642



13. *D.K.Trivedi & Sons and others v. State of Gujarat and Others*¹⁴
14. *State of T.N. v. M.P.P.Kavery Chetty*¹⁵
15. *Jitendra Singh & Another v. State of M.P. & Others*¹⁶
16. *S.N.Sundersen and Co.Katni v. The State of Madhya Pradesh and another*¹⁷
17. *M/s.J.K.Cement (Western) Limited, Bagalkot v. The State of Karnataka, Department of Industries and Commerce and Another*¹⁸
18. *Industrial Supplies Pvt. Ltd. and Another v. Union of India and Others*¹⁹
19. *India Cements Ltd. and others v. State of Tamil Nadu and others*²⁰

(Mr.SrinathSridevan, Senior Counsel)

1. *Jitendra Singh & anr. V. State of M.P. & ors.*²¹
2. *D.K.Trivedi & Sons and others v. State of Gujarat and Others*²²
3. *A.P.Small Scale Granite Industries Association v. The Government of A.P.Industries & Commerce (mines) & others*²³
4. *M/s.J.K.Cement Limited v. The State of Karnataka, rep. By its Principal Secretary, Commerce and Industries Department and Others*²⁴
5. *Mineral Area Development Authority & Anr. V. M/s.Steel Authority of India & Anr. etc.*²⁵
6. *Divisional Controller, Karnataka State Road Transport Corporation v. Mahadeva Shetty*²⁶
7. *Patel Gordhandas Hargovindas and Others v. Municipal Commissioner, Ahmedabad and Another*²⁷
8. *Durga Prasad v. Union of India and Others*²⁸
9. *Dalmia Cements (bharat) Limited v. State of Tamil Nadu and Ors.*²⁹
10. *Theivu Pandithan and Another v. Secretary of State for India*³⁰

¹⁴(1986) (Supp) SCC 20

¹⁵(1995) 2 SCC 402

¹⁶I.L.R. (2009) M.P.,1683

¹⁷AIR 1963 MP 213

¹⁸I.L.R. (2021) Kar 2935

¹⁹(1980) 4 SCC 341

²⁰(1990) 1 SCC 12

²¹I.L.R. [2009] M.P., 1683

²²(1986) (Supp) SCC 20

²³2002 (5) ALD 707

²⁴I.L.R. (2020) Kar 519

²⁵(2024) 10 SCC 1

²⁶(2003) 7 SCC 197

²⁷1963 SCC OnLine SC 57

²⁸2000 (53) DRJ (DB)

²⁹MANU/TN/5797/2024

³⁰1898 ILR 21 Mad 433 (FB)



11. *The Secretary of State for India in Council v. Raghunatha Tathachariar*³¹
12. *The Secretary of State for India in Council v. Sri Kuthalanathaswami Temple*³²
13. *Subburaj v. The District Collector, Madurai District, Madurai and others*³³
14. *Industrial Supplies Pvt. Ltd. and Another v. Union of India and Others*³⁴
15. *Divisional Controller, KSRTC v. Mahadeva Shetty and Another*³⁵
16. *India Cement Ltd. and Others v. State of Tamil Nadu and Others*³⁶
17. *D.K.Trivedi & Sons and Others v. State of Gujarat and Others*³⁷
18. *Surajdin Laxmanlal v. State of M.P., Nagpur and others*³⁸
19. *H.R.Rama Rao (died) his L.Rs. HR Venkamma and others v. The Collector, Chittoor and another*³⁹
20. *Sarah Mathew v. Institute of Cardio Vascular Diseases by its Director Dr.K.M.Cherien and others*⁴⁰
21. *M/s.Dwarkadas Marfatia and Sons v. Board of Trustees of the Port of Bombay*⁴¹

Mr.SathishParasaran(Senior Counsel)

1. *State of Rajasthan and another v J.K.Synthetics Limited and another*⁴²

(Mr.Rahul Balaji)

1. *M/s.Misrilall Jain & Sons & Anr. v. State of Jharkhand & Ors.*⁴³
2. *Raichurmatham Prabhakar and Another v. Rawatmal Dugar*⁴⁴
3. *Union of India v. Sankalchand Himatlal Sheth and Another*⁴⁵
4. *Delhi Airtech Services Private Limited and Another v. State of Uttar Pradesh and another*⁴⁶
5. *Reserve Bank of India and Others v. Peerless General Finance and*

³¹1915 ILR 38 Mad 108

³²AIR 1928 Mad 1176

³³2014 SCC OnLine Mad 6498

³⁴(1980) 4 SCC 341

³⁵(2003) 7 SCC 197

³⁶(1990) 1 SCC 12

³⁷1986 (Supp) SCC 20

³⁸1959 SCC OnLine MP 19

³⁹1957 SCC OnLine AP 207

⁴⁰(2014) 2 SCC 62

⁴¹(1989) 3 SCC 293

⁴²(2011) 12 SCC 518

⁴³2011 SCC OnLineJhar 858

⁴⁴(2004) 4 SCC 766

⁴⁵(1977) 4 SCC 193

⁴⁶(2011) 9 SCC 354



*Investment Company Ltd. and Another*⁴⁷

*6.D.K.Trivedi & Sons and others v. State of Gujarat and Others*⁴⁸

*7.State o T.N. v. M.P.P.Kavery Chetty*⁴⁹

*8.Jitendra Singh &anr. V. State of M.P. &ors.*⁵⁰

*9.S.N.Sundersen and Co.Katni v. The State of Madhya Pradesh and another*⁵¹

*10.M/s.J.K.Cement (Western) Limited, Bagalkot v. The State of Karnataka, Department of Industries and Commerce and Another*⁵²

*11.Industrial Supplies Pvt. Ltd. and Another v. Union of India and Others*⁵³

*12.India Cement Ltd. and others v. State of Tamil Nadu and others*⁵⁴

25. Mr.Wilson, for his part, relies on the following decisions:

*1. Mineral Area Development Authority and Ors. vs. Steel Authority of India and Ors*⁵⁵

*2.Sultana Begum v Prem Chand Jain*⁵⁶

*3. Balasinor Nagrik Cooperative Bank Ltd v Babubhai Shankerlal Pandya & Ors*⁵⁷

*4. Delhi Airtech Services (P) Ltd v State of U.P and anr*⁵⁸

*5. Mahadeolal Kanodia v Administrator-General of West Bengal*⁵⁹

*6. The State of West Bengal v Anwar Ali Sarkar*⁶⁰

*7. Mohammad Shujat Ali &Ors v Union of India &Ors*⁶¹

26. We have heard all learned counsel and have perused the material papers.

27. The appellants/petitioners are all licence holders under the provisions

⁴⁷(1996) 1 SCC 642

⁴⁸(1986) (Supp) SCC 20

⁴⁹(1995) 2 SCC 402

⁵⁰I.L.R. [2009] M.P., 1683

⁵¹AIR 1963 MP 213

⁵²I.L.R. (2021) Kar 2935

⁵³(1980) 4 SCC 341

⁵⁴(1990) 1 SCC 12

⁵⁵2024 (10) SCC 1

⁵⁶(1997) 1 SCC 373

⁵⁷(1987) 1 SCC 606

⁵⁸(2011) 9 SCC 354

⁵⁹AIR 1960 SC 936

⁶⁰(1952) 1 SCC 1

⁶¹(1975) 3 SCC 76



of the Act read with the Rules. They operate mines in the State of Tamil Nadu and the State Government has executed mining leases in the Forms provided under the Rules. The questions for consideration are two-fold:

i) Whether the State Government is entitled, in terms of Section 24-A of the Act read with Rule 72 of the Rules, to demand surface compensation from the operators of mining lease on poramboke lands and

ii) If the answer to Issue (i) is in the affirmative, is the computation of demand of surface compensation in line with the prescription of Rule 72(2) and (3) of the Rules and in line with the principles of natural justice.

28. The Mines and Minerals (Development and Regulation) Act, 1957 (in short 'Act'), and the Mineral Concession Rules, 1960 (in short 'Rules') provide for regulations in regard to mines and minerals by the Union. The scheme of the Act and the Rules are comprehensive and address all stages of the activity of development of mines, from the initial stages of reconnaissance and prospecting onwards. All the appellants/petitioners before us are past the stage of reconnaissance operations, and have entered into mining leases with the State Government.

29. The lease agreements provide for payment of various charges, such as Royalties, Dead Rent and Water Charges. The lease deeds in the case of all appellants/petitioners we are told, are identical in their import, barring the details of the parties and the specifics of the lands and connected details.



30. The mining lease is granted pursuant to a Government Order, the annexure to which contains the survey numbers of lands for which the lease is to be executed. The District Collector is to take action in terms of that Government Order, for execution of the lease deed.

31. Our attention has been drawn to the lease deed executed in the case of Chettinad Cement Corporation, supplied under an additional typed set dated 08.04.2025, and we extract the relevant clauses in that lease deed as being representative of the agreements in all cases. The mining lease is in the form of Government Order (in this case G.O.Ms.No.22 dated 09.01.1989). Paragraph 6, which stipulates the rates, reads as follows:

*Government of Tamil Nadu
Abstract*

*Mines and Minerals –Mining lease—Limestone—Anna District,
Vedasandur Taluk, Karikali village – Over an extent of 310.07 acres
– Application of Tvl.Chettinad Cement Corporation Limited, Madras
– Sanctioned.*

Industries (D2) Department
G.O.Ms.No.22 *Dated 9-1-1989*

Read the following:

.....

6.The rates of royalty dead rent, and surface rent shall be as follows:-

Royalty

Limestone : *Rs.10 per tonne*

Dead rent

1st year of the lease

Nil

2nd to 5th year of lease

*Rs.30 per hectare
per annum*



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*6th to 10th year of the
Lease*

Rs.60 per hectare per annum.

*11th year of the lease
and onwards*

*Rs.90 per hectare
per annum.*

Surface rent and water rate: *At such rates as the land revenue and cesses assessable on the land are paid.*

32. The Government Order and the Lease Deed refer to rates of Royalty, Dead Rent, Surface Rent and Water Rate, and there is no reference herein to surface compensation or any compensation, for that matter, in terms of Sections 9 and 9-A, that address respectively, the question of Royalties in respect of mining leases and Dead rent to be paid by the lessee. All appellants/petitioners confirm that necessary remittances to the District Mineral Foundation and National Mineral Exploitation Trust in terms of Section 9-B and 9-C of the Act have been made and the State does not dispute this position.

33. The thrust of the argument of the Petitioners' submissions is thus, that the Act envisages a different approach when it comes to surface compensation qua the State, and that compensation has been contemplated only qua private parties. This submission is premised upon the use of the word '*occupier*' in some of the provisions. We now proceed to examine the relevant statutory provisions and rules to test this submission.

34. The first of these is Section 18-A of the Act, which deals with the power to authorise the GSI to make investigation. That provision states that,



where the Central Government believes that it is necessary to collect precise information with regard to the availability of mineral in any land in relation to which prospecting licence or mining lease has been granted, the GSI may be authorised to carry out detailed investigations for the purpose of obtaining necessary information, after consultation with the State Government that has granted the licence/lease.

35. On the issuance of authorisation as aforesaid, the GSI is authorised to embark on such assignment and may proceed to carry out various operations on the land in question. The provision is extracted below:

18-A. Power to authorise Geological Survey of India, etc., to make investigation.

(1).....

(2).....

(a) to enter upon such land,

(b) to dig or bore into the sub-soil,

(c) to do all other acts necessary to determine the extent of any mineral available in or under such land,

(d) to set out boundaries of the land in which any mineral is expected to be found,

(e) to mark such boundaries and line by placing marks,

(f) where otherwise the survey cannot be completed on the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no such authority or agency shall enter into any building or upon any 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 its intention to do so.

36. The proviso makes it clear that the GSI or any agency shall enter into the building or upon the enclosed Court or the garden attached to a dwelling



house only with the consent of the occupier, for which purpose the occupier should be issued at least seven days' notice in writing of their intention.

37. The question that would arise is as to whether the State would fall within the ambit of 'occupier' as referred to in Section 18A above. The proviso refers to a building or dwelling house with garden attached, and either of the aforesaid could technically be in occupation of either the Government or a private party. However, since the GSI would embark upon the operations only after consultations with the State Government, the consent of the State, even in a situation where it is the occupier of the building/house, would not arise.

38. Section 24-A which deals with the rights and liabilities of a holder of mineral concession, talks about compensation to be paid for loss or damage which is likely to arise or as arising from, or in consequence of the reconnaissance, mining or prospecting operations and reads as follows:

24-A Rights and liabilities of a holder of mineral concession-

(1) On the issue of a mineral concession 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 mineral concession 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



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such permit, licence or lease for any loss or damage which is likely to arise or has arisen from or in consequence of the reconnaissance, mining or prospecting operations.

(3) The amount of compensation payable under sub-section (2) shall be determined by the State Government in the manner prescribed.

39. Section 24-A(2) enables the payment of compensation to the occupier of the surface of the land for loss or damage which is likely to arise, or has arisen as a consequence from the mining operations, and makes no distinction between poramboke and private lands. Coming to the Rules, Rule 22 provides for applications for grant of mining lease, and is, to the extent relevant to this case, extracted below:

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.*

(2) Omitted.

(3) (i) Every application for the grant or renewal of a mining lease shall be accompanied by –

(a) a non-refundable fee of two thousand and five hundred rupees;

(b) Omitted.

(c) Omitted.

(d) a valid clearance certificate, in the form prescribed by the State Government on 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:

.....

(f) an affidavit stating that the applicant has –

(i) filed up-to-date income-tax returns;

(ii) paid the income-tax assessed on him; and

(iii) paid the income-tax on the basis of self-assessment as provided in the Income-tax Act, 1961;



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(g) *an affidavit showing particulars of area mineral-wise in the State, which the applicant or any person jointly with him –*

(i) already holds under a mining lease;

(ii) has already applied for but not granted;

(iii) being applied for simultaneously;

(h) a statement in writing that the applicant has, where the land is not owned by him, obtained surface rights over the area or has obtained the consent of the owner for starting mining operations :

Provided that no such statement shall be necessary where the land is owned by the Government :

Provided further that the consent of the owner for starting mining operations in the area or part thereof may be furnished after execution of the lease deed but before entry into the said area:

Provided also that no further consent would be required in the case of renewal where consent has already been obtained during grant of the lease.

(i a) The State Government may, for reasons to be recorded in writing, relax the provision of sub-clause (d) of clause (i).

(ii) Every application for the grant of a mining lease shall in addition to those specified in clause (i) be accompanied by a deposit of one thousand rupees for meeting the preliminary expenses in connection with the grant of the mining lease :

Provided that the applicant shall deposit such further deposit as may be asked for by the State Government, within one month from the date of demand of such deposit.

(4) The applicant shall submit a mining plan, duly approved by the Central Government or by an officer duly authorised by the Central Government, to the State Government to grant mining lease over that area.

40. Rule 22(3)(h) stipulates the ingredients for an application for grant or renewal of mining lease, and requires a statement in writing that the applicant has, where the land is not owned by him, obtained surface rights over the area or has obtained consent of the owner for starting mining operations.

41. Such consent is only required in a case where the aforesaid operations are to be carried out on private patta land and thus the proviso beneath Rule



22(3)(h) clarifies that no such statement is necessary where the land is owned by the Government. Thus, there is an understanding that the State has sovereign and total rights over poramboke land, which include surface rights, to the exclusion of all other parties.

42. We now come to Rule 27 which states that every mining lease shall be subject to various conditions. Rule 27 applies in the case of all mining leases as it states that ‘*every mining lease*’ shall be subject to the following conditions. Clauses (c), (d) and (j) of Rule 27(1) are relevant and relate to annual dead rent, surface rent and water rate, not exceeding the land revenue, water and cesses assessable on the land and the maintenance of accurate records of all trenches, pits and drillings made in the course of mining operations for inspection. Rule 27(1)(t) stipulates that the lessee shall pay to the occupier of the surface of the land, such compensation as may be payable under these Rules.

43. The above clauses of Rule 27(1) are extracted below:

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

.....

.....

(c) the lessee shall pay, for every year, except the first year of the lease, such yearly dead rent [at the rates specified in the Third Schedule] [of the Act] and if the lease permits the working of more than one mineral in the same area [the State Government shall not charge separate dead rent in respect of each mineral]:

Provided that the lessee shall be liable to pay the dead rent or royalty in respect of each mineral whichever be higher in amount but not



both;

(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;

....

(j) the lessee shall keep accurate records of all trenches, pits and drillings made by him in the course of mining operations carried on by him under the lease, and shall allow any officer authorised by the Central or the State Government to inspect the same. Such records shall contain the following particulars, namely :-

(a) the sub-soil and strata through which such trenches, pits or drillings pass;

(b) any mineral encountered;

(c) such other particulars as the Central or the State Government may, from time to time, require;

....

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

44. Rule 27(2) adumbrates those contingencies that may be provided for in the case of the State Government and the only reference therein in relation to compensation is towards damage to the land covered by the lease. According to the appellants/petitioners, the term ‘occupier’ cannot include State, as the State is not an occupier but is the owner of the poramboke lands which are the subject matter of Writ Appeals/Writ Petitions. The Petitioners have hence argued that the question of compensation has not been contemplated in cases where the leases are on Government lands, and as a sequitur, such levy, of compensation, would stand attracted only in cases of lease on private lands.

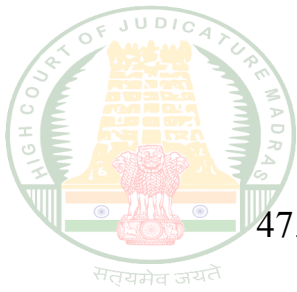
45. Rule 72 reads as follows:



“72. Payment of compensation to owner of surface right 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 as the case may be, the mining lease, 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 sub-rules (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.’*

46. Rule 72 provides for the payment of compensation to an ‘occupier’ of the land. The execution of a lease deed is in Form K as per Rule 31. Form K comprises recitals, Part I being the Schedule of area over which the lease extends, Part II dealing with liberties, powers and privileges to be exercised and enjoyed by the lessee/lessees subject to the restrictions and conditions that are contained in Part III, Part IV being the liberties, powers and privileges reserved to the State Government, Part V being rents and royalties reserved by the lease, Part VI being the provisions relating to rents and royalties, Part VII being covenants of lessee/lessees, Part VIII being covenants of the State Government and Part IX being general provisions.



47. We have gone through Form K carefully and those portions of the

Form as are relevant to this case, are extracted below:

*FORM K
MINING LEASE
(See rule 31)*

.....

Part II

*LIBERTIES, POWERS AND PRIVILEGES TO BE EXERCISED AND
ENJOYED BY THE LESSEE/LESSEES SUBJECT TO THE RESTRICTIONS
AND CONDITIONS IN PART III*

.....

To enter upon land and search for, win, work, etc.

*1.Liberty and power at all times during the term hereby demised to enter
upon the said lands and to search for mine, bore, dig, drill for, win, work, dress
process, convert, carry away and dispose of the said mineral/minerals.*

*2.Liberty and power for or in connection with any of the purposes
mentioned in this part to sink, drive, make, maintain and use in the said lands
and pits, shafts, inclines, drifts, levels, waterways, airways and other works
(and to use, maintain deepen or extend any existing works of the like nature in
the said lands).*

To bring and use machinery equipment, etc.

.....

PART III

*RESTRICTIONS AND CONDITIONS AS TO THE EXERCISE OF THE
LIBERTIES POWERS AND PRIVILEGES IN PART II*

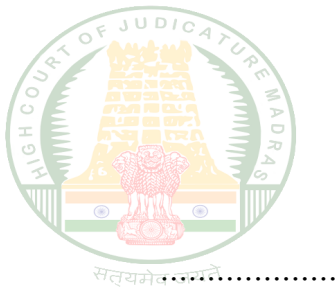
.....

PART IV

*LIBERTIES, POWERS AND RIVILEGES RESERVED TO THE STATE
GOVERNMENT*

.....

PART V



RENTS AND ROYALTIES RESERVED BY THIS LEASE

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**PART VI
PROVISIONS RELATING TO THE RENTS AND ROYALTIES**

.....

**PART VII
THE COVENANTS OF THE LESSEE/LESSEES**

.....

4.The lessee/lessees shall make and pay such reasonable satisfaction and compensation as may be assessed by lawful authority in accordance with the law in force on the subject for all damage, injury or disturbance which may be done by him/them in exercise of the powers granted by this lease and shall indemnify and keep indemnified fully and completely the State Government against all claims which may be made by any person or persons in respect of any such damage, injury or disturbance and all costs and expenses in connection therewith.

To secure and keep in good conditions pits, shafts, etc.

5. The lessee/lessees shall during the subsistence of this lease well and sufficiently secure and keep open with timber or other durable means all pits, shafts and workings that may be made or used in the said lands and make and maintain sufficient fences to the satisfaction of the State Government round every such pit, shaft or working whether the same is abandoned or not and shall during the same period keep all workings in the said lands except such as may be abandoned accessible free from water and foul air as far as possible.

.....

9.The lessee/lessees shall report to the State Government the discovery in the leased area of any mineral not specified in the lease within sixty days of such discovery along with full particulars of the nature and position of each such find. If any mineral not specified in the lease is discovered in the leased area, the lessee/lessees shall not win and dispose of such mineral unless such mineral is included in the lease or a separate lease is obtained therefor.

To keep records and accounts regarding production and employees etc.

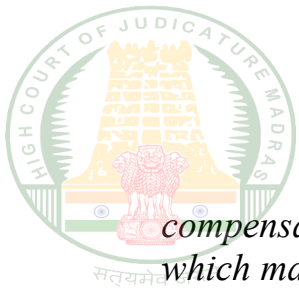
.....

11-D.The lessee shall pay compensation to the occupier of the land on the date and in the manner laid down in these rules.

.....

To pay compensation for injury of third parties

15.The lessee/lessees shall make and pay reasonable satisfaction and



compensation for all damage, injury or disturbance or person or property which may be done by or on the part of lessee/lessees in exercise of the liberties and power granted by these presents and shall at all times save harmless and keep indemnified the State Government from and against all suits, claims and demands which may be brought or made by any person or persons in respect of any such damage, injury or disturbance.

.....

PART VIII
THE COVENANTS OF THE STATE GOVERNMENT

.....

PART IX
GENERAL PROVISIONS

.....

(emphasis in bold, ours)

48. In the case of *Madras Cement Limited*, the Revisional Authority under the Act has passed Final Order No.190 of 2000 dated 29.11.2000 under Section 30 of the Act accepting the argument of *Madras Cement Limited* that no compensation is payable by the holder of mining rights to the State under Rule 72, and the operative portion of that order reads as follows:

'12. We proceed to examine this issue in detail.

13. The contention of the petitioner is that in case of Government poramboke lands only surface rent can be charged by the State Government under Rule 27(1)(d) of the Rules and the State Government cannot levy any compensation under Rule 72 of the Rules in case of such poramboke lands.

14. The contention of the State Government is that Rule 72 of the Rules does not distinguish between private lands and Government lands and hence compensation is payable.

15. We proceed to examine whether under the scheme of the Act and the Rules, a distinction has to be made between privately owned lands and Government lands. As regards payment of compensation for the use of surface of the lands, Section 24A(2) and Section 13(2)(j) of the Act deal with the issue. These provisions prescribe as follows:-



“24A(2)- The holder of a reconnaissance permit, prospecting licence or mining lease referred to in sub-section (1) shall be liable to pay compensation in such manner as may be prescribed to the occupier of the surface of the land granted under such permit, licence or lease for any loss or damage which is likely to arise or has arisen from or in consequence of the reconnaissance, mining or prospecting operations.”

“13(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:-

‘.....

(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.”

16.From the perusal of Section 13(2)(j) of the Act, it is clear that it deals with the rule making powers of the Central Government to protect third party rights in case any such party is prejudicially affected by reason of any mining operations. Evidently, the three parties envisaged here are:

- a) State Government in whom the mineral rights vest;*
- b) The mining lease holder who wishes to win the mineral;*
- c) The private land owner in whom the surface rights vest.*

17.What is sought to be protected by framing rules under this clause is the surface rights of a private land holder and to compensate the private land holder for loss of alternate use to which he could have put the land to. In normal course, a private land owner would use his land for agricultural/horticultural or some other productive use, may be a non-agricultural use and would derive income from the usufruct of the land. When the land is leased out for mining to some other party, the land owner is deprived of the use of the surface of the land for a certain period of time and hence the concept of compensation to the



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private land owner.

18.Evidently, in case of a Government land put for mining operations, there would be only two parties, the State Government in whom vests the mineral rights and also the surface rights and the mining lease holder and apparently no third party will be prejudicially affected by grant of mining concession by the State Government in respect of such Government lands and such cases are not covered by Section 13(2)(j) of the Act.

19.Rule 27(1)(t) of the Rules provides that "the lessee shall pay to the occupier of the surface of the land such compensation as may become payable under these rules".

20.It is clear that the "occupier" here means a private land owner because under the Tenancy Laws present in most of the States, a private land holder is a tenant or an occupier of the land because the owner of the agricultural land is usually the State Government. A harmonious construction of the Act and the Rules make it clear that the term. "occupier" in Rule 27(1)(t) of the Rules cannot include a State Government.

21.As has been discussed in the preceding paragraphs, under the existing scheme of the Act and the Rules, the State Government is not to be compensated for the use of the surface of the land by the lessee. Instead the State Government is to be paid by the lessee "surface rent" and "water rate" as has been prescribed under Rule 27(1)(d) of the Rules which reads as follows:

"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."

22.The logic for such a provision is straightforward. In a normal case if the land was not used for mining, it would have been used for agriculture and the revenue that would have accrued to the State Government would have been yearly land revenue and if the land was irrigated land also the periodic water/irrigation cess etc. Hence the loss in revenue to the State Government by way of alternate land use is being made good by the statute.

23.Rule 72 of the Rules details the procedure for payment of compensation to the "occupier" of the land. The Rule reads as follows:



Not repeated here, as the provision has been extracted at paragraph 45 supra

24. As already discussed the "occupier" in this Rule means, a private land holder and what has been provided in this Rule is that he should be paid annual compensation which would be average net income from cultivation of similar land in case of "agricultural lands" and annual compensation worked out on the basis of annual average letting value of similar lands in case of non-agricultural lands. This Rule makes it crystal clear that a private land owner is being compensated for loss of alternate land use or in other words is being reimbursed the cost of missed opportunity.

25. This issue has been discussed by the Hon'ble Madhya Pradesh High Court in the S.N. Sunderson & Co. Vs. State of M.P. and another reported in 1963 M.P. Law Journal p.274 and their Lordships in paras 4 and 5 have ruled as follows:

"4. Under the general law, it is well-established that a grantor cannot derogate from his own grant. It follows from this principle that one, who grants a thing, is presumed to grant everything which is necessary for the enjoyment of the thing granted. Applying this principle to a mineral concession, there is an implied grant of all rights accessory for the full enjoyment of the right to take away minerals. So, in Haripada Bandopadya Vs. Equitable Coal Co. Ltd. (1), a Division Bench of the Calcutta High Court stated:

"So far as the second point is concerned, it is settled law that a right of using the surface to which the mine owner may be entitled by implication is confined to such things as are reasonably and strictly necessary for the convenient working of the mines".

In view of this legal position, the State Government cannot require the petitioner to pay any compensation for using the surface area of the land strictly for the purposes of the mine unless there be any provision to the contrary either in the statute governing the matter or in the agreement itself. As we would show in a moment, the matter is specifically covered by the agreement.

5. Sub-section (2) of section 4 of the Act is as under:

"No prospecting licence or mining lease shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder".



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The relevant Rule 27(1)(d) of the Mineral Concession Rules, 1960, framed under section 13 of the Act reads:

"27(1) Every mining lease shall be subject to the following conditions and such conditions shall be incorporated in every mining lease:-

(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."

This corresponds to Rule 41(1)(iv) of the Mineral Concession Rules, 1949, which have been specifically mentioned in the agreement dated 26th December, 1960. That Rule reads:

41(1). Every mining lease shall include the following conditions:-

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

From the Rule reproduced above, it is plain that, for the surface area, which the petitioner may use for the mine, compensation payable cannot exceed the land revenue and cesses assessable on such land. Since, by the terms of the agreement, the petitioner is required, and he had expressly undertaken, to pay surface rent in accordance with this Rule, he could not have been called upon to pay any other compensation for the use of the surface of the land for the purposes of the mine. To require it so to do is not only contrary to the terms of the agreement, but it also amounts in effect to importing a condition prohibited by section 4(2) of the Act reproduced above."

26.Keeping the deliberations of the preceding paragraphs and the ruling of the Madhya Pradesh High Court in view, it is clear that the State Government cannot ask the petitioner to pay any compensation for using the surface area of State poramboke lands for mining and hence the impugned condition imposed by the State Government is legally untenable.

27.It is, thus, clear that the State Government has erred in prescribing the impugned condition and also in passing the impugned order in pursuance of the impugned condition and hence these are set aside.



49. The Revisional Authority has, in the order as above, similar to other orders in the cases of the other Petitioners/Appellants, held that the State, as the sovereign entity granting mining rights would only be entitled to the charges as specifically referred to in the Act and Rules, being dead rent, royalty, water charges and cesses, and not compensation in respect of the vacant government poramboke lands. We see no infirmity in the above order and in fact, no specific flaw has been pointed out by the State except in the general terms as recorded by us in the narration supra.

50. Mining leases are granted in two circumstances, one, in respect of Government lands and two, in respect of private lands where the rights are held by private owners. Irrespective of ownership, undisputably the surface rights of the lands vest in the State. That apart, the lands in respect of which the mining rights are granted may be occupied by third parties, meaning that a third party may be in occupation of either government owned poramboke lands or private patta lands.

51. There are thus the following situations at play:

- (i) Government poramboke lands that are vacant or put to use by the State for its own purposes
- (ii) Government poramboke lands that are allotted/assigned by it to a third party
- (iii) Private lands that are vacant or in occupation by the patta holder
- (iv) Private lands that are in occupation by a third party at the instance of the



patta holder

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52. In all the above scenarios, the State is the undisputed owner of the surface rights. In scenarios (i) and (iii) above, the State and private owner, wear two hats, playing a dual role of owner and occupier. In scenarios (ii) and (iv), the State and private parties are the owners, and have granted right of occupation to a third party.

53. In our view the term '*compensation*' must attach to the existence or otherwise of an '*occupier*' upon the subject land. We are, in this batch of matters, concerned only with Government poramboke lands that are vacant and which, admittedly, have not been allotted or assigned, or occupied by the Government. In such a situation, the question of compensation will not arise.

54. For instance, if the State in this case had either allotted/assigned the land to a third party for their use, or if the State had been exploiting the land for its own infrastructure or amenities, then the State may be entitled to compensation in its capacity not as owner of that land but in its capacity as occupier of the land. However, as, in the present cases, this situation does not arise, we make no conclusion in this regard and leave that question open to be decided in an appropriate case.

55. We reiterate however, that the question of compensation does not arise in the present cases, as the Government has not been ousted from occupation of the lands that are the subject matter of the mining rights in the



present cases.

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56. The definition of the word ‘compensation’ as per the Black’s Law Dictionary is as follows:

‘compensation . . . Remuneration and other benefits received in return for services rendered; esp., salary or wages. Payment of damages, or any other act that a court orders to be done by a person who has caused injury to another. In theory, compensation makes the injured person whole.

57. Compensation means making good the loss that a person/entity has suffered. The loss in this case would relate to the use of the property for its own purposes, and the question of such loss would arise only if the Government had put the leased land to some use, which is admittedly not the case in any of these matters. The State is entitled to collect royalty and all other charges in respect of the lease of the land for mining. There is no loss or deprivation for which the State requires to be compensated and hence, simply on first principles, we accept the first argument to the effect that Rule 72 dealing with compensation would not arise in the facts and circumstances of the present cases.

58. Incidentally, three affidavits have been filed, two dated 11.06.2024 and 30.04.2025 by ACC Limited, appellant in W.A.Nos.862 of 2020 and 587 of 2022 and W.P.Nos.2636 of 2017 and 8619 of 2025 and one by Dalmia Cement (Bharat) Ltd., appellant in W.A.No.182 of 2021 and W.P.No.7896 of 2001 dated Nil June, 2022 confirming that in eight other States where the appellants before us are operating and managing mines, the State Governments have not



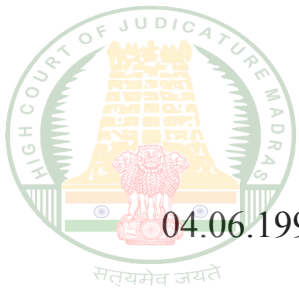
raised any demand invoking Rule 72.

59. With this, the demands could well be set aside as being without the sanction of law. However, in the interests of completion, we also advert to issue (ii) relating to quantification of the compensation.

60. Despite the Act and Rules being of 1957 and 1960 vintage respectively, it was only on 19.06.1997 vide G.O.Ms.No.173 that the State has notified the District Collector of each District to act as Authorised Officer to determine the amount of annual compensation for surface rights of Government poramboke lands in respect of which prospecting licence or mining lease for major minerals had been granted. The District Collector is to determine the amount in the manner provided under sub-Rules (2) to (4) of Rule 72 of the Rules.

61. We have extracted Rule 72 at paragraph 45 supra. Section 72(2) states that in the case of agricultural land, the actual compensation shall be worked out on the basis of average annual net income from the cultivation of similar land for the previous three years. In the case of non-agricultural land, Rule 72(3) stipulates that the annual compensation be worked out on the basis of average annual letting value of similar land for the previous three years. The manner of determination is thus very clear and there is no ambiguity in that regard.

62. G.O.Ms.No.173 dated 19.06.1997 merely reiterates the stipulation in the Rules. While so, G.O.(perm) No.460 of Revenue (N.M.2) Department dated



04.06.1998 made a departure in stating as follows:

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Government of Tamil Nadu

Abstract

Lands-Lease - leasing of government lands-Lease money-Local Cess and Local Cess surcharge-fixation-orders issued.

Revenue (N.M.21 Department

G.O. (Perm.) No.460

Dated 4.6.98

Read:

1. Letter No.83677/94 /G3 /dated 14.6.97 of the Director of Panchayat Development.

2 Letter No. T1/846/89 dated 9.7.92 and 29.3.94 of the Special Commissioner and Commissioner of Land Administration.

Order:

When the Government lands are leased out to private parties, the lease money for the Government lands for non-commercial purposes are fixed at 7% of the present land value and when the lands are leased for commercial purposes the lease money is fixed at 14% of the present land value.

2. Presently, as per the Tamil Nadu Panchayats Act, 1994, the lease money is being levied with local cess at 100 % of lease money and local cess surcharge at 500% of the lease money. As per this, for the Government poramboke lands leased for commercial purposes, the lessee are subjected to pay 98% of the land value per year (i.e.14% lease money + 14% local cess + 70% local cess surcharge). When the government poramboke lands are leased for non-commercial purposes, the lessee are subjected to pay lease money at 49% of the present land value per year (i.e 7% - lease money + 7% local cess + 35% local cess surcharge). This leads to non-collection of not only local cess and local cess surcharge as well as non collection of lease money.

3. The Commissioner of Land Administration has requested in his letter that either not to collect local cess and local cess surcharge on the lease money for Government poramboke lands and to amend the Tamil Nadu Panchayats Act accordingly or to reduce the lease money to 1% or 2%. However, the Director of Panchayat



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Development has stated in his letter that either collecting the reduced lease money or non-imposition of local cess and local cess surcharge will lead to considerable loss of revenue to the local bodies.

4. After careful consideration, the Government has issued orders that the annual lease money, local cess and local surcharge to be levied as detailed below, whenever the Government poramboke lands are leased:

<i>Purpose</i>	<i>Lease money</i>	<i>Local cess</i>	<i>Local Cess surcharge</i>	<i>Total</i>
<i>Commercial purposes</i>	<i>2%</i>	<i>2%</i>	<i>10%</i>	<i>14%</i>
<i>Non-commercial purposes</i>	<i>1%</i>	<i>1%</i>	<i>5%</i>	<i>7%</i>

/By order of the Governor/

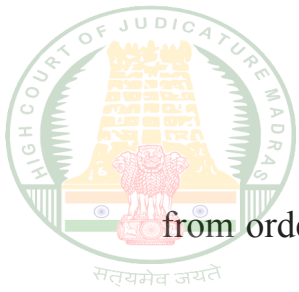
*R.Chellamuthu
Secretary to Government*

/True Copy/

*Sd/- T.Sivagnanam
Dt.21.7.98
Superintendent.*

63. It is to be noted that the dictat under G.O.Ms.No.460 dated 04.06.1998 is different that stipulated under Rule 72. In any event, the requirement under the Panchayat Act to levy local cess and local cess surcharge was itself removed with effect from 2009 onwards.

64. Under letter bearing No.5407/MM9/2017 dated 07.05.2021, the State, for the first time, applied its mind to the aspect of compensation, taking a cue



from order dated 20.11.2019 passed in the batch of Writ Petitions impugned in the present appeals. Those Writ Petitions were filed by the State of Tamil Nadu challenging an order passed by the Secretary to Government, Ministry of Mines dated 31.03.1999 which had set aside the levy of compensation.

65. A Circular was issued on 07.05.2021 purporting to levy surface right annual compensation and raising a demand, and the entirety of that Circular is extracted below:

*Commissionerate of Geology and
Mining,
Guindy, Chennai – 600 032*

Lr.No.5407/MM9/2017

Dated: 07.05.2021

CIRCULAR

*Sub: Mines and Minerals – Major Minerals – The Minerals
(Other than Atomic and Hydro Carbon Energy Minerals)
Concession Rules, 2016 – Writ petition filed by State
Government in W.P.Nos.4373/2000 etc., before the
Hon'ble High Court – Writ Petition dismissed by the
Hon'ble Court on 20.11.2019 – Demand towards Annual
Surface Right Compensation from major mineral lessees
– instructions issued – Reg.*

- Ref: 1.G.O.(Ms) No.173, Industries Department dated
19.06.1997*
- 2. Government order in G.O.(Stand) No.460,
Revenue (elpk.2) Department, dated 04.06.1998
and Letter (Ms.) No.155 Dated 10.03.2005 of the
Secretary to Government in Revenue Department.*
 - 3. Orders of the Hon'ble Madras High Court dated
20.11.2019 in W.P.Nos.4373/2000, 7900 and
7901/2001, 7896 to 7899/2001, 6958 and
6959/2002 and 30561 to 30564/2012, etc.,*
 - 4. Minutes of the Review Meeting conducted on
22.2.2021 & 25.2.2021*



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As per erstwhile Rule 72 of Mineral Concession Rules, 1960 and Rule 52 of MCR, 2016, the holder of mineral concession shall be liable to pay to the occupier of the surface of the land over which he holds the concession, 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 sub-rules (2) to (4).

2) In this regard, the State Government have authorized the District Collector concerned to fix and collect the amount of annual compensation vide G.O.(Ms)No.173, Industries Department dated 19.06.1997.

3) Accordingly, the surface right annual compensation is being fixed by the District Collector and demand has been raised in respect of mining leases granted for major minerals in government poramboke lands.

4) While granting mining lease for limestone and other major minerals in Government poramboke lands, Government in Industries department imposed conditions for fixation and collection of surface right compensation by the District Collector

5) Aggrieved by the condition imposed by the State Government, Revision applications were filed by the lessees before the Government of India, Tribunal. The revision authority has set aside the condition imposed by the State Government.

6) Against the orders passed by the revision authority, the State Government have filed writ petitions in W.P.Nos.4373/2000, 7900 and 7901/2001, 7896 to 7899/2001, 6958 and 6959/2002 and 30561 to 30564/2012, etc., before the Hon'ble High Court Madras.

7) Further, the lessees also filed writ petitions against the orders demanding annual compensation by the District Collectors before the Hon'ble High Court Madras.

8) The Hon'ble High Court in its final order dated 20.11.2019 has allowed the writ petitions filed by the State Government and dismissed the writ petition filed by the lessees and observed that the Government is the tile holder of Government Poramboke lands and has vested rights to collect such compensation, as an owner and as an occupier from the lessees.

9) Thus the Hon'ble High Court had upheld that State Government is entitled to levy and collect annual surface right compensation from the lessees towards the damages caused to the



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surface of the Government poramboke lands.

10) As the writ petitions filed by the lessees have been dismissed, action has to be taken for collection of surface right compensation from the lessees without any delay.

11) To have uniformity in the demand raised towards surface right annual compensation, the modalities for arriving the surface right annual compensation as stipulated in the rules are as under.

Rule 52(2) - In 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.

Rule 52(3) - In 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.

12) To arrive the average annual letting value of non-agricultural lands, the Government in revenue department have issued instructions in G.O.(Stand)No.460, Revenue (elpk.2) Department, dated 04.06.1998 as under:

i)	Commercial purposes	-	14% of the land cost is determined as lease rent
ii)	Non-Commercial purposes	-	7% of land cost is determined as lease rent

13) Further, the Secretary to Government in Revenue Department in Letter (Ms.) No.155 Dated 10.03.2005 has issued instructions regarding fixation of lease rent, local cess and local cess surcharge and municipal tax etc., for grant of lease of Government lands.

14) To avoid discrimination in arriving the demand towards surface right annual compensation in case of non-agricultural lands, the instructions issued by Revenue Department from time to time may be scrupulously followed for Rule 52(3) of MCR 2016.

In view of the above, all the district officers are instructed to issue demand notice to the lessees in respect of surface right annual compensation by way of adopting the Board Standing Order (RSO) No.24A of Revenue Department issued in G.O.(Stand) No.460, Revenue (elpk.2) Department dated 04.06.1998.

Sd/- L.Subramanian,



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Commissioner of Geology and Mining
//Forwarded By Order//
Joint Director

66. Though at paragraph 11, Rules 52(2) and 52(3) (read 72(2) and 72(3)) have been extracted, at paragraph 12, the contents of G.O.Ms.No.460 dated 04.06.1998 find reference. As a result, for commercial purposes, 14% of the land cost has been determined as lease rent and for non-commercial purposes, 7% of the land cost has been determined as lease rent. Thus, there is a complete go-by to the stipulations under Rules 72(2) and 72(3) by the Commissioner of Geology and Mining, as the stipulations for commercial purposes and non-commercial purposes are very different from what the Rules set out.

67. This has given rise to a communication from the Ministry of Mines, Government of India to the Principal Secretaries in-charge of the Mining Departments of various State Governments, specifically on the subject of fixation of annual surface compensation. This letter is dated 11.11.2022 and the contents are extracted below:

No.16/92/2022-Mines VI
Government of India
Ministry of Mines

Shastri Bhawan, New Delhi
Date: 11.11.2022

To
The Principal Secretary/Secretary,
In-charge of Mining Department,
State Governments (as per list)



Subject: Fixation of annual surface compensation

Sir,

I am directed to say that as per Section 24A of the MMDR Act, the concession holders are required to pay to the occupier of the surface of the land, compensation in the manner determined by the State Government for any loss or damage which is likely to arise or has arisen from or in consequence of the reconnaissance, mining or prospecting operations.

2. The manner of determining the annual surface compensation is prescribed in Rule 52 of the Minerals (Other Than Atomic and Hydro Carbons Energy Minerals) (MOAHCEM) Concession Rules, 2016, whereby State Governments are required to appoint an officer, who shall be responsible for determining annual compensation to be payable by the concessioner to the occupier of the surface of the land over which the mineral concession is held.

3. Sub-rule (2) and (3) of Rule 52 of the M(OAHCEM)CR, 2016 provide the basis of determining the annual surface compensation payable in respect of agricultural and non-agricultural land, respectively. Sub-rule (4) of Rule 52 of the M(OAHCEM)CR, 2016 empowers State Governments to specify the date on or before which the annual compensation is to be paid.

4. Fixation of annual compensation rates will expedite the commencement of production from the mines as well as promote ease of doing business.

5. In view of the above, the following is requested:

- i. Whether rates of annual compensation payable by the concession holder to the occupier of the surface of the land over which the mineral concession is held, have been fixed by the State Government as per Section 24A of the MMDR Act read with Rule 52 of the M(OAHCEM)CR, 2016.*
- ii. If yes, details of the annual surface compensation fixed by your State Government may be provided to this Ministry.*
- iii. If not, an officer may be appointed by the State Government, who shall be responsible for determining annual compensation as per Rule 52 of the M(OAHCEM)CR, 2016. The details of the same may be provided to this Ministry upon fixation of annual surface compensation.*



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W.A.Nos.1228 of 2023 etc. b2



Yours faithfully,
(Abhishek Kumar Upadhyaya)
Under Secretary to the Govt. of India
Tel No-23384743
Email-ak.upadhyaya@nic.in

68. This letter, at paragraph 2, states that the determination of annual surface compensation is qua *'the occupier of the surface land over which the mineral concession is held'*. At paragraphs 4 and 5, the Central Government has urged the fixation of annual compensation rates in the interests of promotion of ease of doing business and have raised three specific queries in regard to the fixation of rights for annual compensation. The State confirms that there has been no answer to the letter as on date.

69. On 05.07.2024, the Joint Secretary to Government of India, Ministry of Mines has, once again, addressed the Principal Secretaries of Mining Departments of all States and Union Territories in regard to various points in connection with determination of surface compensation. The operative portion of that letter is as follows:

No.16/92/2022-Mines VI
Government of India
Ministry of Mines

Shastri Bhawan, New Delhi
Dated: 05th July, 2024

ORDER

.....
Now therefore, in exercise of the powers conferred under
Section 20A of the Act, the Central Government, for the



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conservation of mineral resources, in the national interest, and for the scientific and sustainable development and exploitation of mineral resources and in order to facilitate the implementation of the provisions of section 24A of the Act and Rule 52 of MCR 2016, hereby directs as follows:

- i. The State Government shall appoint an officer for determining the annual surface compensation (if not already appointed) and specify the date on or before which the annual surface compensation shall be payable (if not already specified) in accordance with the provisions of sub-rule (1) and (4) of Rule 52 of the MCR 2016, respectively, within a period of 30 days from issue of this order.*
- ii. In case the State Government does not appoint an officer as per clause (i) above, the District Collector / District Magistrate / Deputy Commissioner of the district shall be deemed to be the officer appointed for the purpose after expiry of said period of 30 days till an officer in this regard is appointed by the State Government.*
- iii. Further, in case the State Government does not specify the date on or before which the annual surface compensation shall be payable within 30 days of issue of this order, then:*
 - a. the annual surface compensation for each full calendar year, shall be payable on or before 30th June of that year;*
 - b. in case of commencement of mining operations during part of a year, the annual surface compensation shall be payable on pro-rata basis and before the date of commencement of mining operations.*
- iv. On receipt of any request by the preferred/successful bidder or licensee or lessee for determining annual surface compensation in respect of any area, the appointed officer shall determine the annual surface compensation in accordance with law within 90 days of the receipt of such request.*
- v. The State Governments shall facilitate the entry of the concession holder in the lands over which such mineral concession has been granted at all times during its currency to facilitate conduct of reconnaissance, prospecting or*



mining operations as the case may be in accordance with sub-section (1) of section 24A of the Act.'

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70. On 23.07.2024, the Chennai Commissionerate of Geology and Mining writes to all the District Collectors seeking implementation of the directives under letter dated 05.07.2024 for levy of annual surface compensation in respect of the mining lease granted in Government poramboke lands. In our view, the contents of communication dated 05.07.2024 have been misinterpreted to mean collection of compensation in respect of Government owned vacant lands, which we have held is legally impermissible.

71. This has led to a series of notices issued to various operators calling for payment of compensation in respect of Government owned vacant poramboke lands. Even in these notices, we find that there is little or nil adherence to the manner of determination as set out under Rule 72.

72. As a sample, we extract the impugned communication in R.C.No.291/2012/X-1 dated 14.12.2016 in W.P.No.2636 of 2017, issued by the District Collector, Department of Geology and Mining, Coimbatore for the period 1997 to 2014 calling for remittance of a sum of Rs.73.45 crores based on the guideline value of the adjacent patta lands:

*O/o the District Collector
Dept. of Geology and Mining,
Collectorate,
Coimbatore*

Rc.No.291/2012/X-1 dated 14.12.2016.



Notice

Sub Mines and Minerals – Limestone – Coimbatore District and Taluk – Ettimadai, Madukarai and Kurichi Villages – over an extent of 334.82 acres of Government poramboke lands – Fourth renewal of Mining lease application preferred by Tvl.ACC Ltd., - Fixation of Annual Compensation amount – Notice issued by the Tahsildar, Coimbatore (South) – Remittance details – called for – regarding.

Ref: 1. G.O. Ms.No.674 Ind., (MMA1) Dept., dated 22.09.1989.

2. Fourth renewal of mining lease application preferred by Tvl.ACC Ltd. Dated 21.08.1995.

3. Notice issued by the Tahsildar, Coimbatore (South) in Rc.No.6817/2005/A5 dated 10.05.2013.

Kind attention is invited to the references cited.

Tvl.ACC.Ltd., was directed by the Tahsildar, Coimbatore (South) vide Notice Rc.6817/2005/A-5 dated 10.05.2013 to remit a sum of Rs.26,65,75,893/- towards annual compensation for the period from 01.04.1997 to 31.03.2014 based on the guideline value of the adjacent patta fields as per G.O.Ms.No.173 Industries Department dated 19.06.1997 in respect of the Government poramboke lands held under renewal of mining lease by the applicant company in Madukarai, Ettimadai and Kurichi villages in Coimbatore Taluk (South) in Coimbatore district.

The amount fixed by the Tahsildar Coimbatore towards annual compensation for the period from 01.04.1997 to 31.03.2014 based on the guideline value of the adjacent patta field is furnished as follows.

Sl. No	Village	SF.No.	Classification	Extent	Estimated amount from 01.04.1997 to 31.03.2014 (Rs.)
1.	Madukkarai	881/2	National High Ways	0.41	122488



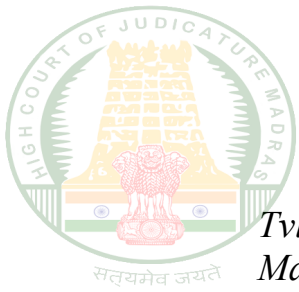
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2.	Madukkarai	881/3	Forest	0.12	35357
3.	Madukkarai	950/1 (968-SF.No. 950/ 1 attache d)	Karadu	68.09	19950170
4.	Madukkarai	958/2	Karadu	0.04	11720
5.	Madukkarai	961/6	Forest Land	0.05	13814
7.	Madukkarai	962/2	Forest Land	0.04	11051
8.	Madukkarai	1044/3	Vari	0.20	58630
9.	Madukkarai	1046	Kallankuthu	0.90	3813069
10.	Madukkarai	1063	Unassessed waste Karadu	42.70	195067413
11.	Madukkarai	1113/2	Kallankuthu	12.86	3767022
12.	Madukkarai	1128/2	Kallankuthu	12.86	3733980
13.	Madukkarai	1140	Kallankuthu	142.3 2	39991179
	Total				266575893
1.	Kuruchi	4/1	Natham	27.73	361548052
2.	Kuruchi	739	Kallankuthu	7.42	96743114
	Total				458291166
1.	Ettimadai	144/2	Vari	0.04	36154
2.	Ettimadai	617/1A	Vari	5.00	2444457
3.	Ettimadai	617/1B	Vari	5.84	2855126
4.	Ettimadai	617/1E	Vari	5.22	2552015
5.	Ettimadai	617/1F	Vari	3.60	1760009
6.	Ettimadai	616	Karadu	0.07	34222
	Total				9681983
	GrandTotal				734549042

In view of the above, you are directed to remit a sum of Rs.734549042/- towards Annual Compensation for the period from 01.04.1997 to 31.03.2014 in respect of the Government Poramboke land held under the renewal of mining lease.

*Sd./
xxx
District Collector,
Coimbatore.*

To



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*Tvl.ACC Ltd.,
Madukkarai.*

W.A.Nos.1228 of 2023 etc. b2



*//True Copy/By Order//
For District Collector,
Coimbatore.*

73. The above notice is incorrect for so many reasons:

(i) It seeks to raise a demand in respect of a period close to 17 years.

Even if there were no limitation provided for raising of a demand, it is necessary that some reasonable time frame be adhered to when a demand is raised. This is a settled position of law which has been given a go-by in the present cases.

(ii) The basis of the demand is guideline value of adjacent patta lands, which is contrary to the stipulation under Rules 72(2) and 72(3).

(iii) The classification of the lands does not appear to have taken note of the requirements under Rule 72(2) and 72(3).

(iv) The demand comes under the head '*estimated amount from 01.04.1997 to 31.03.2014*'. It baffles the Court as to how a statutory demand, which is what the notice purports to raise, can be raised on an estimated basis.

(v) No opportunity has been granted to the noticees calling for their response or for any particulars prior to the issuance of these demands.

74. The impugned demands, are also, for the above reasons, arbitrary, unilateral and incorrect in law, and we quash the same. Consequently,



attachments, if any, will stand raised.

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75. In light of the above detailed discussion, the Writ Appeals and the Writ Petitions are allowed. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J] [C.K., J]
10.09.2025

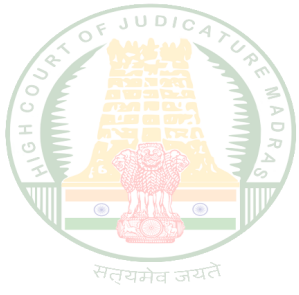
Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes/No
sl

Note: Registry is directed to type the full cause title, if necessary while issuing this order.

To

1.The Secretary,
Mines and Minerals Department,
Fort St.George, Chennai 600 009.

2.The District Collector,
Salem District,
Tamil Nadu.



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W.A.Nos.1228 of 2023 etc. batch



DR. ANITA SUMANTH.,J.
and
C.KUMARAPPAN.,J.

sl

W.A.Nos. 1228 of 2023 etc. batch

10.09.2025