

(1994) 01 MAD CK 0031

In the Madras High Court

Case No : Writ Petitions No's. 2463, 3565, 9064 and 15284 of 1993

A. Dharmarajan

APPELLANT

Vs

Collector of Kamarajar and others

RESPONDENT

Date of Decision : 04-01-1994

Acts Referred:

Constitution of India, 1950 — Article 226

Mines and Minerals (Development and Regulation) Act, 1957 — Section 17A

Citation : (1994) CriLJ 2960

Hon'ble Judges : J. Kanakaraj, J

Bench : Single Bench

Advocate : K. Govindarajan, M/s V. Sanjeevi and T. Alagushanbagam, for the Appellant; P. Chandrasekarau, Addl. Govt. Pleader and N. Jothi, for the Respondent

Judgement

J. Kanakaraj, J.—All the writ petitions and the contempt application arise out of the lease granted to and in favour of one Dharmarajan

(hereinafter called the petitioner) to quarry stones in survey Nos. 1299, 1192/93, 1352/1, 196 and 1202 of Thiruthangal Village, Sattur Taluk of

an extent of about 83.75 acres. The lease of stone quarry was sold in auction conducted on 26-8-1988. The petitioner was the successful bidder

for the Fasli years 1398 to 1400. A lease deed was executed on 27-3-1989 and registered on 3-7-1989. The petitioner made an application for

renewal on 18-3-1991 and the same was rejected on 28-6-1991. The appeal was also rejected on 15-9-1991. A revision to the Government

also proved unsuccessful and the Government rejected the application 3-2-1993. W.P. No. 2463 of 1993 is for the issue of a writ of certiorarified

mandamus to quash the order of the Government, Order dated 3-2-1993 and to direct the respondents to grant a renewal as per the application

dated 18-3-1991.

2. During the currency of the lease, the petitioner claims to have segregated from the mother rock, huge blocks of rocks. He had to remove the blocks, shape them and treat them before making them suitable for transport and the sale. The petitioner therefore, made an application for permission to remove the said stones. In the memo dated 19-8-1991, the Collector of the District (hereinafter called "the Collector") rejected the request on the ground that the period of lease had expired on 30-6-1991. Thereupon the petitioner filed W.P. No. 11325/1991 seeking a writ of mandamus to direct the Collector to issue transport permits for the removal of such stones. By order dated 29-8-1991 S. Ramalingam, J. noticed that by making vertical and horizontal cuttings at four places by the method of blasting about 2600 cubic metres of rock had been segregated from the mother rock, by the petitioner. That apart there were 12 partly dressed stone blocks measuring about 45 cubic metres. Rejecting the plea of the Government that only dressed blocks ready for removal could be permitted to be removed the learned Judge held as per the clause in the lease deed, that the petitioner is entitled to remove all the blocks of blue metal lying in the site and which have been severed from the mother rock. The operative portion of the judgment is as follows :-

Since admittedly a quantity of 2,600 cubic metres of rocks have been segregated by vertical and horizontal cuttings, the petitioner is entitled to issue of transport permits for the removal of not only 2,600 cubic metres of segregated rocks, but also 45 cubic metres of partly dressed stone blocks.

A Writ Appeal preferred against the said judgment in W.A. No. 1378 of 1991 was dismissed on 19-11-1992. In his proceedings dated 8-7-1992 the Collector directed the petitioner to vacate the quarry within 15 days from the date of the notice. The petitioner approached the Government to extend the time. The Government in their letter dated 23-12-1992 asked the petitioner to approach the Collector to whom necessary instructions had been given by the Government. It transpires that the Government by their Order dated 23-12-1992 had directed the Collector to permit the removal of 1419.036 cubic metres of dimensional stone blocks within a reasonable time. The Collector in his proceedings dated 8-1-1993

permitted the petitioner to remove the water stagnated in the area within 60 days and then approach the Collector for; transport permits. On 11-1-

1993 the petitioner sought for permission to remove the dimensional blocks measuring 1419.036 cubic metres. But the Collector in his

proceedings dated 12-1-1993 allowed seven months time to remove the block. The Collector had made it clear that the petitioner should vacate

the quarry by 15-9-1993 and that for no reason the time would be extended any further. By a further communication dated 21-2-1993 the

Collector cancelled his order dated 12-1-1993 and directed the petitioner to vacate the quarry immediately. Writ Petition No. 3565 of 1993 is to

quash the said letter dated 21-2-1993 and to direct the respondents to permit the petitioner to remove the balance quantity of 1419.036 cubic

metres of dimensional stone blocks to the place of the petitioner's choice.

3. By G.O. Ms. No. KA 64 Industries dated 16-2-1993 the Government exercised their powers under sub-rule 1 of Rule 8C of the Tamil Nadu

Mineral Concession Rules, 1959 (hereinafter called "the Rules") and granted lease for a period of 10 years to the Tamil Nadu Minerals Limited

(Hereinafter called "TAMIN") for quarrying coloured granite over an extent of 2.56 hectare in Survey No. 1299, Thiruthangal Village. The

Petitioner is seeking to quash the said Government Order in WP No. 9064 of 1993 on the ground that his claim for renewal is pending disposal on

the file of this court in WP No. 2463/1993.

It is also contended that the quarry had been notified under Rule 8 and therefore a lease cannot be granted under Rule 8C. In W.P. No. 3565 of

1993 TAMIN filed an application WMP No. 6942 of 1993 to implead themselves as party-respondents. They also filed WMP No. 6943 of

1993 to vacate the interim order granted in favour of the petitioner on 25-2-1993 and staying the letter dated 21-2-1993 impunged in WP No.

3565 of 1993. While the implead petition was ordered, the petition to vacate the interim order was rejected. That order was passed on 11-3-

1993. The petitioners is again aggrieved by an order dated 6-8-1993 holding that the petitioner is entitled to remove 44.055 cubic metres of stone

blocks and directing the petitioner to identify those stone blocks. The Collector also directed the petitioner to remove the said stone blocks of

44.055 cubic metres on or before 27-8-1993, after paying the seigniorage fee.

This order dated 6-8-1993 is challenged in W.P. No. 15284 of

1993 on the ground that it has not taken note of the earlier orders of the Collector permitting the removal of 1419.036 cubic metres of dimensional

stone blocks as per the order of the Government date 22-12-1992. The petitioner states in this writ petition that for various reasons he could not

transport the entire quantity of dimensional blocks. He further states that as on 11-8-1993 there were dressed and undressed stone blocks to the

tune of 400 cubic metres. He also says that by way of rocks segregated from the mother rock there were about 1000 cubic metres.

4. In my order dated 11-3-1993 made in WMP Nos. 5658, 6942 and 6943 of 1993 in WP No. 3565 of 1993 while impleading TAMIN and

making the stay absolute I directed the petitioner not to undertake any fresh quarrying operation"" and permitting him only to remove the already

quarried stones. Contempt Application No. 363 of 1993 has been filed by "TAMIN" on the ground that the said direction has been violated by

the petitioner and the petitioner had been continuously indulging in fresh quarrying operations, by segregating blocks of stones with the use of Jet

burners, compressors and other drilling and blasting operations. It is also stated that "TAMIN" had preferred several complaints to the Collector

and neither the Collector nor the Police Authority has taken any positive action to prevent the petitioner from conducting fresh quarrying

operations.

5. The Collector has filed a counter affidavit in W.P. No. 3565 of 1993 stating that there is a quantity of 99.93 cubic metres of rocks awaiting

removal from the subject quarry. According to the Collector if at all the petitioner can be permitted to remove only that amount of quarried stones

and not anything more, one statement in the counter affidavit brings out the crux of the matter and pin points the issue for consideration it is as

follows :-

The Petitioner's aim is obviously to cling on to an area wherein his lease has already expired on 30-6-1991 itself and to remove materials further

under the guise of Court's order"".

This statement in counter affidavit is a sad reflection of how the parties exploit the jurisdiction of this Court under Art. 226 of the Constitution of

India.

The Counter affidavit proceeds to say that as per the directions of this Court in W.P. No. 11325 of 1991 dated 29-8-1991 the petitioner had

been permitted to transport the already quarried materials and transport permits were issued to him, whenever he applied for the same. Details are

given showing that upto 12-1-1993 a total quantity of 2545.074 cubic metres of stone blocks had been permitted to be removed. The said

quantity includes 1500 cart-loads of jelly permitted to be removed on 23-12-1991, and 3000 cart-loads of jelly permitted to be removed on 20-

1-1992. The contention of the petitioner is that these two cart-loads of jelly were lying even before 1990. This statement cannot be accepted. On

the question of rejection of the renewal., it is stated that the respondents had treated the lease areas as coming under Rule 8 of the Rules.

Subsequently, it has been proved that the area contains granite blocks of export grade suitable for ornamental and decorative purpose and

therefore, a renewal of the lease was not in the interest of mineral development. It is however, admitted in the counter affidavit that there is a

balance of 99.93 cubic metres of stone blocks to be removed after deducting the stone blocks already removed based on the directions of this

Court in W.P. No. 11325 of 1991. It is also contended that the petitioner has no right to remain in possession of the area as per condition No. 9

of the lease deed and as per Rule 10 of the Rules. Inasmuch as a proper lease has been granted to M/s. Tamin under Rule 8C of the Rules, the

respondents had directed the petitioner to vacate the lease area. It is also contended that the directions of this Court in W.P. No. 11325 of 1991

has practically been complied with and there is no reason why the petitioner should not give way to M/s. TAMIN who are the present grantees.

6. I must now refer to the order passed by me in WMP Nos. 568, 6942 and 6943 of 1993 in W.P. No. 3565 of 1993 on 11-3-1993. I have

already noticed the fact that M/s. TAMIN were directed to be impleaded as a party-respondents in this Writ Petition. I had taken the view that

Prima facie the order dated 21-2-1993 cancelling the earlier permission granted on 12-1-1993 was vitiated by violation of Principles of natural

justice. While therefore, permitting the petitioner to remove the already quarried stones as per the order of this Court in W.P. No. 11325 of 1991

for a period of seven months as per the permission granted on 12-1-1993 I made an important command to the petitioner. I had stated that ""for

the purpose of clearing any doubt I direct the petitioner not to undertake any fresh quarrying operation, but he can only remove the already

quarried stones." It is this command which is said to have been disobeyed by the petitioner and M/s. TAMIN has come forward with contempt

Application No. 363 of 1993 to punish the petitioner for wilful disobedience of my order dated 11-3-1993.

7. A counter affidavit has been filed by the petitioner in the contempt Application. The best part of the counter affidavit is devoted to allegation

against M/s. TAMIN. He has denied that he had indulged in any fresh quarrying.

8. I propose to deal with the contempt Application first, so that the conduct of the petitioner with reference to the subject lease can be

appreciated. The entire records have been placed before this Court on the question whether the petitioner had disobeyed my order dated 11-3-

1993. Both the Counsel for the petitioner and M/s. TAMIN have referred me to various pages in the file as supporting their respective cases.

While the petitioner is mostly relying on the fact that on the dates of respective inspections made by the Officer, there was no quarrying work going

on. Learned counsel for the respondents relies on the substance of the report which according to him speaks volumes about the conduct of the

petitioner. I will quote a few passages from the inspection reports which are very relevant to the issue. Deputy Director of Geology and Mining,

Madurai, in his Inspection Report dated 20-5-1993 states that he inspected the quarry bearing Survey No. 1299 on 15-5-1993. He found that

there was a difference between the actual dimension of the blocks available at the site compared to the size of the blocks for which permits had

been issued. The Deputy Director again inspected the quarry on 18-5-1993. He says, "Two blocks T. 1 and T. 2 were found to be quarried

freshly and removed only on 18-5-1993.

Two blocks namely MQ 42 (2 Blocks with the same number) are found missing in the site." He further says :

The available blocks were compared to the list of blocks for which permits were issued by the Assistant Director of Geology and Mining,

Virudhunagar on 6-5-1993. It is found that except block No. 30 none of these blocks are actually available at the site as on 18-5-1993 and tally

with the list of the blocks for which permits were issued. Although a few blocks,

numbered as I, II, III, IV, V, VI, VII and QF 4 are available at the site, the dimension of the same do not tally with the dimension of the block for which permits were issued. Therefore, it is obvious that the available blocks with the above numbers are either to have been produced freshly by the lessee or a few waste blocks have been so numbered so as to mislead the officials.

He has also gone to the Tuticorin Port to verify whether the blocks sought to be exported tallied with the blocks for which permission had been granted. He found that the stones sought to be exported did not tally with the list of blocks for which permission was issued on 6-5-1993. The blocks had been transported within a week before 17-5-1993. Therefore, he concludes that these blocks had been recently quarried and transported to the Tuticorin Port without any permit and without paying the seigniorage fee. He has given his conclusions which are very much against the conduct of the Petitioner vis-a-vis my order dated 11-3-1993. There is another report dated 24-5-1993 by the Deputy Director. The following sentence is relevant :

From the above, it could be seen that the Ex-lessee has not only transported the granite blocks far in excess of the quantity that has been permitted by the High Court and also continuing the fresh quarrying which is not allowed by the High Court.

On the very same day the Deputy Director also noticed that the quarry face where arrow marks were painted on 18-5-1993, were found to be missing and at that place fresh quarrying was seen. He also says that the petitioner had produced nine new blocks. He also found that one block which was listed on 18-5-1993 was missing. There had been repeated complaints by the Officers of the "TAMIN" to the Licensing Authority as well as to the Police complaining about the disobedience of the order dated 11-3-1993. In the affidavit of the petitioner filed in support of the Writ Petition No. 15284 of 1993 sworn to on 11-8-1993 the petitioner says that there are 400 cubic metres of both dressed and undressed rocks available for transport. He also claims that there is a balance of permitted quantity in the form of segregated rock which measures 1000 cubic metres. These claims are totally in conflict with the counter affidavit of the first respondent-Collector in W.P. No. 3565 of 1993 sworn to on 22-5-

1993. In this counter affidavit the Collector says that the balance of quantity to be permitted as per the direction of this Court in W.P. No. 11325

of 1991 is only 99.93 cubic metres. I have no hesitation in disbelieving the story of the petitioner and accepting the affidavit of the Collector. The

various reports to which I have made reference, clearly show that the petitioner is making fresh quarrying operations and he is trying to exploit the

order of this Court in W.P. No. 11325 of 1991 by adopting illegal means which is apparent from the reports of the Deputy Director of Geology

and Mines. I have already referred to the fact that the lease in favour of the petitioner had expired with effect from 31-5-1991 and in the year

1993 the petitioner is still claiming that he has got a right to remove stone blocks already quarried before 30-6-1991. I have no hesitation in

holding that the petitioner had been making fresh quarrying operations even after my order dated 11-3-1993. This is very clear from the reports of

the Inspecting Officers to which I have made a reference already. I therefore, hold that the petitioner is guilty of contempt of the order of this Court

dated 11-3-1993. Having regard to the order which I propose to make in the other writ petitions, I am of the opinion that the proper punishment

to be imposed on the petitioner is to deny any further permission to transport stone blocks from the subject quarry. In other words, even the 99.93

cubic metres of rock conceded by the Collector to be the remaining quantity to be removed as per the order of this Court in W.P. No. 11325 of

1991 shall not be permitted to be removed by the petitioner. The same shall be surrendered to the respondents and can be taken possession of by

M/s. TAMIN. They (TAMIN) shall however pay necessary seigniorage fee for removing the stone blocks. The petitioner shall not be entitled to

the value of those blocks said to have been quarried by him. This in my opinion, is the proper punishment for the petitioner for having disobeyed

my order dated 11-3-1993.

9. Taking up the main writ petitions, the entire case of the petitioner is built over a slender foundation backed up by a Court order given with good

intentions. We have already noticed that the lease deed in favour of the petitioner expired with effect from 30-6-1991. The petitioner is hanging on

to a clause in the lease deed which is clause 8(b) and it is extracted below :

At the determination of the lease, the lessee shall be at liberty to remove, carry

away and dispose of all the stock of blue metal (stone) ready for delivery and all engines, machinery and all plant, articles and things whatsoever (not being building of brick or stone) the lessee first paying any land assessment, cess and seigniorage and other sums which may be due and performing and observing the covenants on his part herein before reserved and contained and also making good any damage done by such removal but any building which shall be erected on the said demised pieces of lands by the lessee and left thereon at the determination of lease shall be the absolute property of the lessor who shall not be bound to pay any price for the same.

It only means that the and of the lease the lessee is permitted to remove and take away "blue metal and stones" which are "ready for delivery" as well as his machineries. This Court in W.P. No. 11325 of 1991 by order dated 29-8-1991 permitted the petitioner to remove the stones removed from the mother block to the extent of 2600 cubic metres and 45 cubic metres partly dressed stone blocks. The learned Judge has not referred to the clause in the lease deed, though he say so in his order. This order was confirmed in W.A. No. 1378 of 1991 on 19-11-1992. This was indeed a bonus to the petitioner to enable him to remove the stones already removed. I do not think that this Court intended to permit the petitioner to dress the stones, cut it to sizes and remain in the quarry site for ever. The lease deed permits only stones "ready for delivery". However, I am willing to give the petitioner the fruits of this Court's order to the full. The petitioner is hanging to this pound of flesh that he got from this Court and has been trying to get favourable orders from the Collector for the removal of stones after dressing them leisurely in the quarry site. I have already held that in the bargain he has made fresh quarries by blasting from the mother rock. The Government and the Collectorate had been very generous in extending the time to remove the stones in the quarry. By order dated 8-1-1993 one month time was given notwithstanding the stagnation of water. By order dated 12-1-1993, seven months' time is given. I do not know what made the authority to enlarge the time within four days. Again on 21-2-1993, without notice the order dated 12-1-1993 is cancelled and the petitioner is directed to hand over the site immediately. Though I do not think that the order of this Court dated 29-8-1991

in W.P. No. 11325 of 1991 warrants the grant of such a length of time as seven months, the order dated 21-2-1993 is vitiated because no notice was given to cancel the order dated 12-1-1993 granting seven months time. In other words, the order dated 12-1-1993 will be restored. To this limited extent W.P. No. 3565 of 1993 is allowed and the order dated 21-2-1993 is set aside. It has to be remembered that in W.M.P. No. 5658 of 1993 etc. dated 25-2-1993 the order dated 21-2-1993 was stayed and by my order dated 11-3-1993 the stay was made absolute. Thus the order dated 21-2-1993 was practically not given effect to and the petitioner has had the benefit of the time granted under the order dated 12-1-1993.

10. Let me now take up W.P. No. 2463 and 9064 of 1993. The first challenges the order of the Government dated 3-2-1993 confirming the

orders of the Director of Geology dated 18-11-1991 and the Collector dated 28-6-1991 rejecting the claim for renewal. The order of the

Director of Geology dated 18-11-1993 gives the following reasons for rejecting the renewal application. They are (i) The renewal is not automatic

and can be rejected for good and valid reasons, under the Rules (ii) The lease was given under Rule 8 only to quarry rough stones. The site

admittedly contains granite stones fit for polishing and use as ornamental and decorative purposes. Therefore, in the interest of mineral envelopment

a renewal cannot be granted. Rule 8A of the Rules alone governs the grant of leases in respect of the latter type of minor minerals (iii) Under Rule

8A of the Rules the authority to grant lease is the Government and the Collector cannot therefore exercise the power of renewal. The above

reasons are unimpeachable and I have no hesitation in confirming the orders and dismissing W.P. No. 2463 of 1993.

11. W.P. No. 9064 of 1993 is to quash G.O. Ms. No. 64 dated 16-2-1993, in and by which the Government granted a lease to M/s. TAMIN

over an extent of 2.56.0 hectares in Survey No. 1299, Thiruthangal Village, Sattur Taluk. It has to be remembered that lease in favour of the

petitioner comprised Survey Nos. 1299, 1192/3, 1352/1196 and 1202 Thiruthangal Village of an extent of 83.75 acres, which is approximately

33.20 hectares. But the facts as disclosed in the contempt Application and the files to which I have made a reference, show that the entire activity

of the petitioner is centered around Survey No. 1299, Thiruthangal Village, I have already held that the petitioner's application for the renewal of lease dated 18-3-1991 which expired on 30-6-1991 and was rightly rejected by the Collector and confirmed by the Director of Geology and the Government. Therefore, prima facie the lease in favour of M/s. TAMIN and the impugned G.O. Ms. No. 64, dated 16-2-1993 cannot be questioned by the petitioner. Even assuming that the petitioners has a right as a citizen to question the order of the Government on the ground that it is not in accordance with law, I do not find any substance in the arguments advanced on behalf of the petitioner. The argument is that the power under Rule 8(c)(1)(b) cannot be exercised unless there is a prior notification under Rule 38 of the Rules, reserving the area for exploitation in the public sector. This argument is not by learned counsel for M/s. TAMIN by saying that "any area" refers any to areas other than the Government land. In other words, where the Government land is being leased out to a Corporation it is not necessary that the lands should have been reserved for exploitation in the public sector under Rule 38 of the Rules. On the other hand the contention of the learned counsel for the petitioner is "any area" means all areas whether patta or the Government land. Reference is also made to Kaveri Chetty, M.P.P. v. State of Tamil Nadu, 1993 WLR 63. That judgment related to the validity of G.O. Ms. No. 214 and 216 dated 10-6-1992. The issue related to the transport and export of raw block granite stones from patta lands and whether the lessees bound to comply with Rule 19A and 19B of the Rules. One cannot fail to notice the fact that the Rules 19A and 19B are u/s III of the Rules which relate to the grant of permission to quarry in ryotwari lands and other lands of intermediary tenure in which the Government have a claim only to a share of the minerals. In fact Rule 19 relates to the procedure for quarrying in ryotwari lands. Rules 19A and 19B impose special restrictions for quarrying coloured granite for use in decorative purposes. The division Bench was considering the issues with reference to the Mines and Minerals (Regulation and Development) Act 1957. Section 17A of the Central Act deals with the power of reservation "any area" for the purpose of conservation and making the same available to the Central Government. The complaint against Rules 19A and 19B of the Tamil Nadu Rules was based on the right to entrench upon the ryotwari patta holders right to surface

of the land without his consent and without payment of compensation. The Division Bench ultimately held that the amendments made to Rules 19A

as well as Rules 8B and Rule 19B of the Rules are unconstitutional and ultra vires. I am unable to see how the above decision helps the case of the

petitioner. The said judgment relates only to restriction imposed on lease holders in respect of patta lands. But the proposition put forward in the

present case is whether a lease can be granted to a Government owned Corporation notwithstanding the fact that there was no prior notification

reserving the area for Government exploitation under Rule 38. This question did not arise in the said Division Bench judgment.

12. I therefore, propose to consider the argument on first principles. The purpose of Rule 38 enabling the Government to reserve an area for

exploitation in the public sector is only to see that it is taken out of the purview of the earlier Rules enabling the authorities to grant lease to private

persons. Once an area is reserved, no other private person can ask for or be granted a lease for quarrying. This in my opinion, is the one and only

purpose of making a reservation under Rule 38. I agree with the petitioner that the words ""any area"" will relate to any and every land meaning

whether it is patta or the Government land. Once it is reserved under Rule 38 of the Rules, the land will not be available for the grant of permission

or lease to private persons. The fact that there is no reservation does not mean that a lease cannot be granted to a Government owned

Corporation. It is only when a private person has already a lease or permission to quarry in a particular land that the Government owned

Corporation will be disabled from getting a lease. Where there is a land available for the grant of lease, be it to a private person or a Government

owned Corporation the discretion lies with the authorities to grant lease to either of them. This is of course, subject to the restrictions imposed

under Rule 8, 8A, 8B and 8C of the Rules. Under Rule 8C(1)(b) of the Rules the power to grant lease to quarry coloured granites or granites used

for ornamental and decorative purposes shall be made only by the State Government. In this case, we have already noticed that the lease of the

petitioner expired on 30-6-1991 and he was only given a permission by this Court in W.P. No. 11325 of 1991, to remove the already quarried

stones. His application for renewal had been rightly rejected. Therefore, there was no impediment in the grant of a lease to M/s. TAMIN and

consequently, G.O. Ms. No. 64 dated 16-2-1993 is perfectly valid. W.P. No. 9064 of 1993 is therefore, dismissed.

13. We are left with W.P. No. 15284 of 1993. This a writ petition for the issue of a writ of certiorarified mandamus to quash the order dated 6-8-

1993 issued by the Collector. This order dated 6-8-1993 has to be read along with the facts in W.P. No. 3565 of 1993 and the sequence of the

events has to be understood in that perspective. It must also be taken along with the facts disclosed in the contempt Application No. 363 of 1993

and the Inspection reports to which I have already made a reference. In fact the prayer in the writ petition itself is that the petitioner must be

allowed to remove and transport dimensional blocks of stones as per the order dated 12-1-1993 issued by the Collector. I have already restored

the said order dated 12-1-1993 by quashing the said order dated 21-2-1993. Therefore, the petitioner certainly can have the full effect of the

order dated 12-1-1993. Let me once again refer to the said order dated 12-1-1993. The Collector says that about 200 cubic metres of stones

can be removed in one month. Therefore, the Collector concluded that for removal of balance of 1419-036 cubic metres of stones it was sufficient

to give seven months time. The order proceeds to say that after the expiry of the said seven months time, the petitioner must complete his entire

work by 15-9-1993. The Collector also says that no further time would be given. The writ petitions are being argued in December, 1993, nearly

after three months after 15-9-1993 which was the extended date for vacating the quarry. A perusal of the files shows that there has been

considerable correspondence between the parties which only shows the anxiety of the petitioner to remove as may stone blocks as possible,

dressed or undressed. On the other hand, the Collector and the other Officers were bound hand and foot by the directions of this Court in W.P.

No. 11325 of 1991, dated 29-8-1991 as confirmed by a Division Bench of this Court. In other words, the petitioner was hanging on to the pound

of flesh that he got from this court. The impugned order dated 6-8-1993 says that between 10-10-1991 and 6-5-1993 transport permits had been

given to remove 2600.945 cubic metres of stone blocks including jelly. Details of such removal have been attached to the order and according to

this order there was only balance of 44.055 cubic metres stones to be removed as per the order of the Court in W.P. No. 11325 of 1991. The

order therefore, directs the petitioner to be present at the quarry site on 16-8-1993 and to identify the stones to the extent of 44.055 cubic metres and remove the same on or before 27-8-1993. The order also says that if the petitioner failed to identify the stones and remove the same, the said stones will be deemed to be Government property and further action will be taken accordingly. I have already referred to the fact that in the counter affidavit of the Collector filed in W.P. No. 3565 of 1993 it is stated that there is a balance of 99.93 cubic metres of rocks of stone blocks to be removed. I have also held that the petitioner is guilty of contempt in disobeying my order dated 11-3-1993 and I have imposed a punishment by denying the right of the petitioner to remove the said 99.93 cubic metres of stones. This includes 44.055 cubic metres referred to in the impugned order dated 6-8-1993. In my opinion the order dated 6-8-1993 is a very fair and reasonable order and does not call for any interference. There seems to be no end for the avariciousness on the part of the petitioner. I am inclined to say ""Enough is Enough"". In seeking to enforce the order of this Court in W.P. No. 11325 of 1991 dated 29-8-1991, the petitioner has ignored the fact that there is catch in the said order like the catch detected by Portia in the document, entitling Shylock to remove the pound of flesh from the body of Antony. The catch is that the learned Judge did not specify any time within which the already removed stones to the extent of 2600 cubic metres plus 45 cubic metres of dressed stones, should be removed from the quarry site. In the absence of fixation of any time it can only be assumed that a reasonable time should be given to the petitioner. Certainly, the petitioner does not expect this Court to say that two years and six month is not a reasonable time to enable the petitioner to remove the said quantity of stones. The lease itself was for three years from 1-7-1988 to 30-6-1991. If the petitioner expects a further period of 2 1/2 years or nearly three years for removal of the stones already quarried, when his application for renewal had been rejected on valid grounds, it can only be characterised as ridiculous. I have absolutely no hesitation in upholding the impugned order in Na. Ka. KV3/1826/89 dated 6-8-1993 as a valid order. W.P. No. 15284 of 1993 is therefore, dismissed with costs of the Collector of the District, taxed at Rs. 3,000/-.

14. The petitioner shall not remove any stone block or even jelly from the quarry site hereafter. He will have time only to remove the machineries, for which, I give time upto 20-1-1994. The Collector is hereby directed to specially monitor the removal of the machineries and also to see that no further stones are removed from the quarry site. The petitioner shall be evicted from the quarry site at the end of the 15 day period namely, on or after 21-1-1994. It is open to the respondent/Collector to resort to the powers under the Rules for evicting the petitioner. The writ petitions and the contempt Application are ordered in the above terms.

15. Order accordingly.