

(1994) 04 MAD CK 0022

In the Madras High Court

Case No : W.A. No's. 101 to 104 of 1994 and Contempt Appeal No. 1 of 1994

A. Dharmarajan

APPELLANT

Vs

Collector of Kamarajar Dist., Virudhunagar, Kamarajar Dist.
and others

RESPONDENT

Date of Decision : 15-04-1994

Acts Referred:

COMPANIES ACT, 1956 — Section 617

Mines and Minerals (Development and Regulation) Act, 1957 — Section 15, 17A

Citation : (1994) CriLJ 3585

Hon'ble Judges : K.A. Swami, C.J.;Somasundaram, J

Bench : Division Bench

Advocate : K. Subramanian, General and A.S. Venkatachalamoorthy,
Government Pleade, M/s K. Govindarajan, S. Kadarkarai and V. Sanjeevi, for the
Appellant; N. Jothi, for the Respondent

Judgement

K.A. Swami, C.J.—All these matters are inter-connected. Therefore, the learned single Judge has heard them together and decided them by

a common order.

2. Contempt Appeal No. 1 of 1994 arises out of the Contempt application No. 363 of 1993 filed by the respondents in W.M.P. No. 6943/93 in

W.P. No. 3565 of 1993, on the ground that the appellant herein had violated the interim order passed in the writ petition, in that he had quarried

fresh materials contrary to the interim order. The learned learned single Judge has found against the appellant and held that the appellant has

contravened the interim order and has accordingly, by way of punishment, deprived the appellant of the benefit of the order dated 12-1-1993

passed by the District Collector, Kamarajar District. Hence, the appeal. Even in the absence of the order of punishment, the full benefit of the

order dated 12-1-1993 is also not available to the appellant, in view of the fact that the learned single judge has held that the order dated 6-8-

1993 is just and proper and has accordingly upheld the same.

3. Writ Appeal No. 101 of 1994 is preferred against the common order dated 4-1-1994, passed in W.P. No. 15284 of 1993. In that writ

petition, the appellant herein sought for quashing the order dated 6-8-1993, bearing No. Na.K.V. 3/1826/89, passed by the District Collector,

Kamarajar District. By the aforesaid order, the Collector held that the appellant could be ""permitted to remove 44.055 cubic meters, including the

surrendered quantity"".

Accordingly, he directed him to be present at the quarry on 16-8-1993 to mark the blocks of stones to the extent of 44.055 cubic metres in the

presence of Virudhunagar Mines Authority. He also further directed him to pay the acigniorage fee and get permits from the office and transport

the said quantity of blocks on or before 27-8-1993 and on his failure, he was informed that the abovesaid quantity of blocks would be forfeited by

the Government as if the former lessee did not want the same.

4. Writ Appeal No. 102 of 1994 is preferred against the common order dated 4-1-1994 passed by the learned single Judge in W.P. No.

3665/1993. The appellant was the petitions in the writ petition. In the writ petition, he sought for quashing the order dated 21-2-1993 passed by

the District Collector, Kamarajar District in No. N.KK.V. 3/1626/91. By the aforesaid order, the District Collector cancelled his earlier order dt.

12-1-1993 of even number passed in favour of the appellant and further directed him not to carry out any work in the quarry, and vacate the

quarry immediately after removing the accessories and machineries, if any, in the quarry. Under the order dated 12-1-1993, the District Collector

had held that the appellant was entitled to remove the balance quantity of 1419.036 CBM dimensional stones and the same should be removed

within seven months and to vacate the quarry with machineries after finishing all the works on or before 15-9-1993, whereas by the impugned

order dated 21-2-1993. District Collector cancelled his aforesaid order dated 12-1-1993 and directed the appellant to vacate the quarry

immediately. The learned single Judge has held that the order dated 21-2-1993 is bad in law, because the same has been passed without affording

in opportunity of showing cause to and or hearing of the appellant, and as such the said order has been quashed. But, as already pointed out

above, the appellant is denied the benefit available to him under the order dated 12-1-1993 on the grounds, that he is guilty of contempt of Court

and that the order dated 6-8-1993 is just and reasonable. According to the order dated 6-8-1993, the appellant is entitled to remove only 44.055

cm. including the surrendered quantity. As already pointed out the appellant is also denied the benefit of the order dated 6-8-1993 as punishment.

5. Writ Appeal No. 103 of 1994 is preferred against the very common order dated 4-1-1994, passed by the learned single Judge in W.P. No.

2463 of 1993. In this writ petition, the appellant sought for quashing G.O. Ms. No. 47, Industries (MMG I) Department, dated 3-2-1993,

rejecting the prayer made by the appellant for renewal of the lease on the ground that the quarry has been found to be a multicoloured granite

quarry and the grant of lease to quarry multicoloured granite in Government lands is governed by Rule 8-A as in force then. Therefore, the request

of the appellant for grant of renewal under Rule 9 of the Tamil Nadu Minor Mineral Concession Rules, 1959 (hereinafter referred to as the Rules),

could not be conceded. In the circumstances, the Government held that there was no reason to interfere with the orders of the Director of Geology

and Mining refusing to renew the lease. Accordingly the Government rejected the appeal. Learned single Judge has held that the quarry in question

cannot at all be leased to private individual, since the quarry contains multicoloured granite and as such there is a bar for granting a lease in favour

of an individual. Accordingly, the learned single Judge has rejected the writ petition. Hence, the appeal.

6. Writ appeal No. 104 of 1994 is preferred against the very same common order dated 4-1-1994, passed by the learned single Judge in writ

petition No. 9064 of 1993. In this petition, the petitioner appellant sought for quashing the G.O. Ms. No. 64 Industries Department, dated 16-2-

1993, granting a mining lease in favour of the Tamil Nadu Minerals Limited (hereinafter referred to be as the Tamin). The area of the lease covered

a portion of the land, which was leased to the appellant-petitioner, in respect of which he sought for renewal of the lease.

7. We shall first take up W.A. No. 103 of 1994. We do not see any merit in this appeal. Learned senior counsel for the appellant also was very

candid in this regard and submitted that in the light of the provisions contained in Rule 8-A of the Rules, granting or renewing of quarry lease in

respect of a quarry, containing multicoloured granite, in favour of a private person, is not permissible. However, it was submitted that in the event

the lease granted in favour of the Tamin is quashed. Liberty may be reserved to the appellant to approach the State Government under Rule 39 of

the Rules. It may be pointed out here that the appellant was granted the mining lease for quarrying blue metal or jely in the public auction as he was

the highest bidder. But, what is now found in the quarry is the multi coloured granite. Therefore, in the light of the provisions in Rule 8-A of the

Rules, such a quarry, situated in the Government land, cannot be granted to private individuals. Thus, refusal to renew the lease in question is

justified. Hence, we see no ground to differ from the view taken by the learned single Judge in upholding the order in G.O. Ms. No. 47 of the State

Government dated 3-2-1993 and dismissing the Writ Petition No. 2463 of 1993.

8. Before we take up W.A. Nos. 101, 102 and 104 of 1994, we consider it necessary to decide Contempt Appeal No. 1 of 1994 arising out of

contempt application No. 363 of 1993. Learned single Judge has held that the appellant has in violation of the interim order of injunction quarried

fresh materials from the quarry in question; therefore he is liable to be punished. It is relevant to notice that the learned single Judge in coming to

this conclusion has largely relied upon the report made by the Deputy Director of Geology and Mining, Madurai, on 20-5-1993 pursuant to the

inspection alleged to have been made by him on 15-5-1993. The case of the appellant in this regard is that the alleged inspection was made by the

Deputy Director of Geology and Mining, Madurai, without notice to him, that a copy of the report was not made available to him and that he had

no opportunity to meet the contents of the report. It is not in dispute that a copy of the report was not furnished to the appellant. In any judicial or

quasi judicial proceedings, it is a normal rule, consistent with the principles of natural justice that if a decision is rendered on the basis of a particular

document or a report against a party, he is entitled to have an opportunity to put forth his say as against such a report or a document and it is

possible only if a copy of the report or a document, which is relied upon in the proceeding, is made available to the party against whom it is made.

It is the case of the appellant that he has not done any fresh quarrying. Apart from the report referred to above, the affidavit of the applicants in the

Contempt Application is relied upon. As far as the affidavit of the applicants in the contempt application is concerned, the appellant has denied the

same by filing a counter. Therefore, the decision of the learned single Judge can be taken to rest only on the aforesaid report made by the Deputy

Director of Geology and Mining, Madurai. In this regard, we have already pointed out that without providing an opportunity to the appellant to

meet the contents of the report and without furnishing a copy of the report to him, the same could not have been relied upon. No person can be

condemned much less punished without giving him an opportunity to meet the case alleged against him.

9. There is one more circumstance, which goes in favour of the appellant, Sri K. N. Venkataraman, District Collector of Kamarajar District,

Virudhunagar, in which District the quarry in question is situated, has filed his affidavit sworn to on 8-11-1993 with reference to the allegations

made by the applicants in contempt of Court application that the appellant in violation of the order of temporary injunction has quarried fresh

material. Curiously, the Deputy Sheriff of the High Court has taken upon himself the function of the Court and returned the affidavit without any

order of the Court stating that since the Collector Virudhunagar is not a party in the contempt proceedings, it may be stated why counter has been

filed to the contempt proceedings. The Deputy Sheriff has exceeded his authority in returning the counter-affidavit filed in Contempt Application

No. 363 of 1993. It was his duty to place the counter-affidavit before the Court. As a result of returning the counter-affidavit, serious injury has

been caused to the appellant. Of course, before the counter-affidavit was filed, a copy of it was served upon the appellant, as per the endorsement

made on the docket of the counter-affidavit. Therefore, it was submitted before us that in the light of the counter-affidavit of the Collector of the

District, it cannot be held that any fresh quarrying was done by the appellant as no fresh quarrying had taken place. During the course of hearing of

the appeal, we directed the learned Government Pleader to re-file the counter-affidavit of the Collector of Kamarajar District sworn to on 8-11-

1993. Accordingly, it has been re-filed. It is also verified from the records that the Collector of Kamarajar District was the second respondent in

the Sub-Application No. 36 of 1993. If that be so, there was no reason whatsoever for the Deputy Sheriff to return the counter-affidavit of the

Collector of Kamarajar District. As per the averments made in the counter-affidavit of the Collector, no fresh quarrying has taken place. The

relevant portion of the counter-affidavit is as follows :-

With regard to the averments in paragraph 14 to 16, it is submitted that on reports from TAMIN, the quarry was inspected by various officials

like Assistant Collector, Sivakasi, Tahsildar, Sattur, Assistant Director (G & M), Virudhunagar, Assistant Geologist, Deputy Tahsildar (Mines) and

concerned Revenue Inspector on instructions of the Collector and no instance of fresh quarrying has been reported with concrete evidence. The

ex-lessee in his letter and telex message represented the Collector that he has been cutting, removing and dressing the blocks Court from the

segregated rock only as per Court order. He has not crossed his limit marked by the officials and any action against the Collector for disobeying

the Court order. Utmost care has been taken to safeguard the public interest and officials were posted on special duty by the Collector from 2-3-

93 onwards. All other contentions are not correct and contrary. The the Collector in CA 14/93 dt. 16-3-93 instructed the Superintendent of

Police, Virudhunagar to see that ex-lessee does not carry out fresh quarrying. The Superintendent of Police, Virudhunagar in his letter dt. 17-3-

1993 has reported that there is no fresh quarrying done by the ex-lessee. As opined by the Government Pleader, Madras in his letter dt. 3-8-93

the ex-lessee could not be evicted from the quarry site, in view of the pendency of the petitions. Based on the above opinion, the Superintendent of

Police, Virudhunagar was again instructed to give police protection to the Tamin Official in the operation of quarrying, if they approach for it and

also to see that the ex-lessee is not permitted to undertake any fresh quarrying as per the order of the Hon''ble High Court. On 17-8-1993, full

police protection was given to TAMIN, so as to enable them to undertake quarry operation in full fledged manner in all the areas except in place

where the ex-lessee has segregated rock by vertical burner cutting and horizontal blasting, since the volume yet to be transported has not been

decided by the Hon''ble High Court.

In para 13 of the counter-affidavite the Collector has prayed for dismissing the

Contempt of Court application. The Collector of the District is in charge of the entire District. The administration of the District vests in him. He has sworn to an affidavit, as stated above, stating that not only no fresh quarrying has taken place, but all precautionary steps are also taken to ensure that no fresh quarrying takes place. Therefore, we see no justification to accept the case of the complainant. If this counter-affidavit was made available to the learned single Judge, probably the decision would have been quite different. In the light of the counter-affidavite of the Collector of Kamarajar District, the report made by the Deputy Director of Geology and Mining, Madurai, cannot carry any credence. Hence, we are of the view that it is not at all possible to hold, in the light of the counter-affidavit of the Collector of Kamarajar District, that the appellant has, in violation of the interim order of temporary injunction dated 25-2-93 which was later made absolute on 11-3-1993, has quarried any fresh material in the quarry in question. That being so, this Contempt appeal has to be allowed.

10. Writ Appeal Nos. 101 and 102 of 1994 go together, because W.A. No. 101 of 1994 is concerned with the validity of the order dated 6-8-1993 passed by the Collector, Kamarajar District by Which he held that the appellant would be entitled to remove only 44.055 cubic metres of multi-coloured stones an to remove the same on or before 27-8-1993. Whereas W.A. No. 102 of 1994 relates to the validity of the order dated 21-2-1993 passed by the very same District Collector, by which he has held; that though under the order dated 12-1-1993 the appellant was permitted to remove the balance quantity of 1419-036 cubic metres of dimensional stone on or before 15-9-1993; but total quantity of dimensional stone give to the appellants as per the judgment of the High Court, should be taken along with jelly and rough stone; that the Government by order dated 11-1-1993 has leased out the stone quarry work to Tamin for 10 years, and that, therefore, the order dated 12-1-1993 is cancelled and the appellant, on receipt of the order dated 21-2-1993 should not carry out any work in the quarry and he should vacate the quarry immediately, after removing the accessories and machineries, if any, in the quarry.

11. It is the contention of the appellant that the order dated 6-8-1993 was

passed during the pendency of W.P. No. 3565 of 1993, whereas the order dated 21-2-1993 was passed during the pendency of W.P. No. 2463 of 1993. Further, both the orders were passed without affording an opportunity of either showing cause or of hearing to the appellant, even though as per order dated 12-1-1993 the appellant was entitled to remove 1419.036 cubic metres of dimensional stone on or before 15-9-1993.

12. Learned single Judge has held that the order dated 21-2-1993 is not valid in law, because the same has been passed without affording an opportunity whatsoever to the appellant. As far as the order dated 6-8-1993 is concerned, it has been held that the said order is fair and proper.

The reasons given by the learned single Judge are as follows :-

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 many 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. 3565/1993 it is stated that there is a balance of

99.93 cubic metres of rocks stone blocks to be removed. I have also hold 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.

It may be pointed out here that the order dated 6-8-1993 has also been passed without affording an opportunity of whatsoever to the appellant.

Therefore, the ground on which the learned single Judge has held that the order dated 21-2-1993 is bad, because it has been passed without

affording an opportunity of whatsoever to the appellant, is also available as against the validity of the order dated 6-8-1993. One more aspect of

the matter is that Annexure to the order dated 6-8-1993 contains a statement showing the particulars of bulk permits issued to the appellant during

the period from 10-10-1991 to 6-5-1993, which is as follows (vide page 20-A) :-

STATEMENT SHOWING THE PARTICULARS OF BULK PERMITS ISSUED TO THE
EX-LESSEE THIRU A. DHARMARAJAN - THIRUTHANGAL

S. Bulk Date of Quantity Quantity Net quantity Remarks

No. permit issue permitted covered by transported No.

despatch

slip

(surrendered)

- | S. | Bulk | Date of | Quantity | Quantity | Net quantity | Remarks |
|-----|--------|----------|-----------|------------|------------------------------|-------------|
| No. | permit | issue | permitted | covered by | transported | No. |
| 1. | 48013 | 10-10-91 | 44.811 | 44.881 | | |
| 2. | 48014 | 20-12-91 | 497.000 | 407.000 | | |
| 3. | 48015 | 23-12-91 | 425.000 | 425.000 | (1500 cart loads of udaikal) | |
| 4. | 48016 | 11-01-92 | 239.000 | 239.000 | | |
| 5. | 48017 | 30-01-92 | 850.000 | 850.000 | (3000 cart loads of udaikal) | |
| 6. | 48020 | 02-07-92 | 130.000 | 130.000 | | |
| 7. | 48021 | 03-07-92 | 100.317 | 100.317 | | |
| 8. | 48022 | 02-09-92 | 103.726 | 103.726 | | |
| 9. | 48023 | 14-09-92 | 106.430 | 106.430 | | |
| 10. | 48024 | 26-09-92 | 48.790 | 44.110 | 4.680 | (44.110 M3) |

surrendered by
the Ex-lessee
and again issued
on 12-1-93 in
Bulk permit No
. 48025)

11. 48025 12-01-93 44.110 ----- 44.110 -----

12. 48026 06-05-93 87.760 31.829 55.870 (33.889 M3

surrendered on
26-5-92)

2676.944 75.999 2600.945

Total quantity Total quantity permitted by
permitted High Court :

by High Court : 2645.000 M3

Segregated rocks 2600.000 M3

Total quantity

transported by

Partly dressed 45.000 M3

the Ex-lessee : 2600.945 M3

stone blocks

Total 2645.000 M3

Balance 45.055 M3

/True copy/ Sd/- x x x x x x x 9-2-94

12.1 it is on this basis, learned single Judge has held that the order dated
6-8-1993 is fair and reasonable. However, it is contended on behalf of

the appellant that the said Annexure takes into account the quantity of blocks

removed, but items 3 and 5 in the aforesaid Annexure cannot be taken into account, because jelly cannot at all be considered to be dimensional stones. It is contended that as per the order dated 29-8-1991 in W.P. No. 11325 of 1991, the petitioner is entitled to remove 2600.000 cubic metres of rocks, which have been segregated by vertical and horizontal cutting, and also 45.000 cubic metres of partly dressed stone blocks and as such permits granted for removal of jellies cannot at all be taken into account. It may be relevant to notice that the very lease granted to the appellant was for quarrying blue metal stone and materials. Further, while removing the rocks segregated from the mother rock, certain percentage of jelly also come into existence. Therefore, it is not possible to hold that the permit issued for removal of jellies cannot at all be taken into account, in order to determine whether 2600.000 cubic metres of segregated rocks and 45.000 cubic metres of partly dressed stone blocks permitted to be removed have been removed or not. As such, we are not inclined to accept the contention of the appellant that the quantity of jelly removed by him, as shown in the Annexure to the order dated 6-8-1993 cannot at all be taken into account. It is accordingly rejected. It is not disputed by the appellant that such quantity of jelly has been removed by him, pursuant to the permits, as shown in the annexure. Therefore, the same has to be taken into account, while determining whether the appellant has or has not removed the entire quantity of 2600.000 cubic metres of rocks and 45.000 cubic metres of partly dressed stone blocks from the quarry in question, and the balance quantity if any to be removed by him.

13. It is contended by the learned Advocate-General that as per the terms of the lease deed the appellant is not entitled to remove the rock stone and partly dressed stone blocks, as the lease deed enables him to remove only blue metal. It may be pointed out here that we are not deciding this matter for the first time on the basis of the terms of the lease deed. It is too late in the day for the State to contend that the appellant is not entitled to remove 2600.000 cubic metres of rocks and 45.000 cubic metres of partly dressed stone blocks, in view of the fact that the order dated 29-8-1991 passed in W.P. No. 11325 of 1991 filed by the appellant has been affirmed by a Division Bench of this Court in W.A. No. 1378 of 1991 on

19-11-1991 and the same has become final. Therefore, it is not open to the State to contend contrary to the directions issued in W.A. No. 1378 of 1991.

14. But the question still remains as to how much quantity of rock stone and partly dressed stone blocks has been removed by the appellant. We do not consider it just and proper to go into this question and determine the quantity of rock stone and partly dressed stone removed by the appellant as permitted by this Court. Subsequent to the order dated 12-1-1993 of the District Collector the appellant has been permitted to remove certain quantity of dimensional stone. Therefore, we consider it just and appropriate to direct the Collector of Kamarajar District, Virudhunagar, to issue a notice to the appellant stating the quantity of rock stone and partly dressed stone blocks actually removed and the balance quantity if any to be removed out of 2600 cubic metres of rocks and 45.055 cubic metres of partly dressed stone blocks and give two weeks time to file his objections, if any, and thereafter determine the quantity so far removed and the balance if any is yet to be removed, keeping in view the order dated 29-8-1991 passed in W.P. No. 11325 of 1991 and also the findings recorded by us in this judgment, that the quantity of jelly removed by him has also to be taken into account, within a period of two months from the date of receipt of a copy of this judgment.

15. As a result of the aforesaid conclusion reached by us, it follows that both the orders dated 21-2-1993 and 6-8-1993 are liable to be quashed and the quantity of rock stone and partly dressed stone blocks so far removed and the balance if any yet to be removed has to be determined by the Collector, as indicated above.

16. We will now take up W.A. No. 104 of 1994. As already pointed out, this appeal arises out of Writ Petition No. 9064 of 1993 filed by the appellant challenging the mining lease granted in favour of TAMIN under G.O. Ms. No. 64, Industries Department, dated 16-2-1993. Learned single Judge has rejected the writ petition holding that the lease granted in favour of TAMIN is valid and is in accordance with law, having regard to the facts that the lease granted in favour of the appellant had expired, that there was a bar for granting lease in favour of a private individual of the quarry containing coloured granites and also that Rule 38 of the Rules

enabled the State Government to grant quarry lease in favour of the State undertaking. While considering W.A. No. 103 of 1994, we have pointed that having regard to Rule 8-A of the Rules the appellant is not entitled to either grant or renewal of the lease of the quarry in question, as it contains multi coloured granites. Rule 38 of the Rules enables the State Government to reserve any area for the exploitation by the Government, a Corporation established by any Central, State, or provincial Act or a Government Company within the meaning of Section 617 of the Companies Act, 1956, by notification published in the Official Gazette. The contention of the learned senior counsel appearing for the appellant is that it is not at all open to the State Government to grant quarry lease in favour of the State Undertaking, without reserving the area as per Section 17-A(2) of the Mines and Minerals (Regulation and Development) Act, 1957. Section 17A contains three parts and it is inserted by Central Act No. 37 of 1986. We are not concerned with sub-sections (1) and (3) thereof. However, we are concerned with sub-section (2), which reads thus :

The State Government may, with the approval of the Central Government, reserve any area not already held under any prospecting licence or mining lease, for undertaking prospecting or mining operations through a Government company or corporation owned or controlled by it or by the Central Government and where it proposes to do so, it shall by notification in the Official Gazette, specify the boundaries of such area and the mineral or minerals in respect of which such areas will be reserved.

The contention is that as per the aforesaid provision, a notification ought to have been issued, with the approval of the Central Government, reserving an area in question for undertaking prospecting or mining operations through a Government company or corporation owned or controlled by it or by the Central Government. It is not in dispute that the notification as per sub-section (2) of Section 17A of the Act has not been issued.

G.O. Ms. No. 64, Industries Department, dated 16-2-1993 has been issued, exercising the powers conferred under sub-rule (1)(b) of Rule 8-C of the Rules. It is contended by the learned Advocate General and so also the learned counsel appearing for TAMIN that no notification reserving an area, as required by sub-section (2) of Section 17A of the Act, is necessary as long as there is a power vested in the State Government under

Rule 8-C of the Rules to grant such a mining lease in favour of a State undertaking, that reserving of an area for exploitation by way of prospecting or mining operation is different from leasing it. Rule 8-C(1)(b) of the Rules reads thus :-

8-C. Lease of quarries in respect of black, red, pink, grey, green, white or other coloured or multi-coloured granities or any rock suitable for use

as ornamental and decorative stones to State Government company or corporation owned or controlled by the State Governments -

(1)(a)

(b) The State Government themselves may engage in quarrying black, red, pink, grey, green, white or other coloured or multi-coloured granites or

any rock suitable for use as ornamental and decorative stones may grant and renew leases for the above minerals to a State Government company

or a corporation owned or controlled by the State Government.

From clause (a) of the rule, it is clear that no lease can be granted of a quarry containing multi-coloured granites such as black, red, pink, grey,

green, white or other coloured or multi-coloured granites, for use as ornamental and decorative stones, to any person. From clause (b), quoted

above, it is clear that the State Government may themselves engage in quarrying black, red, pink, grey, green, white or other coloured or multi-

coloured granities or any rock suitable for use as ornamental and decorative stones or may grant and renew leases for the above minerals to a

State Government company or a corporation owned or controlled by the State Government.

17. The contention is that a rule has to be read in conformity with the substantive provisions of the Act, inasmuch as the rule framed under the Act

cannot travel beyond the scope of the Act and cannot be inconsistent with the provisions of the Act; therefore, Rule 8-C(1)(b) has to be read as

operative only where there is a notification issued under sub-section (2) of Section 17A of the Act, as otherwise such a rule has to be held as invalid

and contrary to sub-section (2) of Section 17A of the Act. We find it difficult to accept this contention. We are of the view that Reservation of the

area is quite different from leasing of the area according to the Rules. Sub-section (2) of the Section 17A of the Act does not prohibit leasing of the

area; it only provides that the State Government, with the approval of the

Central Government, may reserve certain area for undertaking prospecting or mining operations through a Government Company or corporation owned or controlled by it or by the Central Government.

Section 15 of the Act empowers the State Government to make rules in respect of minor minerals. Sub-section (1-A) of Section 15 of the Act

enables the State Government to frame rules as to the person by which and the manner in which applications for quarry leases, mining leases or

other mineral concessions may be made and the fees to be paid therefor; the terms on which and the conditions subject to which and the authority

by which quarry leases, mining leases or other mineral concessions may be granted or renewed; and also the procedure for obtaining quarry leases,

mining leases or other mineral concessions. In addition to this, sub-clause (O) of sub-section (1-A) of Section 15 of the Act specifically provides

any other matter which is to be, or may be prescribed". Therefore, it is not possible to hold that Rule 8-C of the Rules is beyond the rule-making

power of the State. This apart the validity of the Rule is not challenged.

18. Rule 8-C(1) as it stood earlier was similar to Rule 8-C(1)(b) of the present rule. The Supreme Court has considered the old Rule 8-C(1) in

State of Tamil Nadu Vs. Hind Stone and Others, and held that the said rule is valid. Therefore, we are of the view that the lease granted in favour

of TAMIN, as per Rule 8-C(1)(b) of the Rules, cannot be held to be invalid, merely because there is no notification issued as per sub-section (2)

of Section 17A of the Act. In this view of the matter, it is not necessary to consider the contention of the learned Senior Counsel appearing for the

appellant that the appellant may be permitted to move the State Government to have his request considered for grant of lease under Rule 30 of the

Rules, because the area itself is not available as it is leased out to TAMIN. Hence, the order passed by the learned single Judge rejecting W.P.

No. 9064 of 1993 and upholding G.O. Ms. No. 64, Industries Department, dated 16-2-1993 is to be affirmed.

19. For the reasons stated above, Contempt Appeal No. 1 of 1994 and Writ Appeals Nos. 101, 102, 103 and 104 of 1994 are disposed of in

the following terms;

(1) Contempt Appeal No. 1 of 1994 is allowed the order dated 4-1-1994 allowing Contempt Application No. 363 of 1993 is set aside and

Contempt Application No. 363 of 1993 is dismissed.

(2) Writ Appeals Nos. 101 and 102 of 1994 are allowed. The order of the learned single Judge dated 4-1-1994 passed in W.P. Nos. 15284 of

1993 and 3565 of 1993 is modified and the impugned orders dated 6-8-1993 and 21-2-1993 passed by the Collector, Kamarajar District, are

quashed. The matter is remitted to the Collector, Kamarajar district, to adjudicate as to the quantity of rock stone and partly dressed stone blocks

is actually removed by the appellant pursuant to the order dated 29-8-1991 passed in W.P. No. 11325 of 1991; A. Dharmalingam. Petitioner v.

The Collector of Kamarajar District and another respondents, and the balance quantity if any the appellant is still entitled to remove, in the light of

the findings recorded by us in this judgment and also the order dated 29-8-91 passed in W.P. No. 11325 of 1991 on taking into account the

quantity of jelly removed by the appellant. The above adjudication shall be done after due notice to the appellant and giving him two weeks time to

file his objections, if any, and shall be completed within a period of two months from the date of receipt of a copy of this judgment.

3. Writ Appeals Nos. 103 and 104 of 1994 are dismissed.

4. There will be no order as to costs.

20. Order accordingly.