

(1989) 04 KAR CK 0014

In the Karnataka High Court

Case No : Writ Petns No's. 17378, 7979, 17377, 11752 etc. of 1988, 18988, 18899 of 1987, 1817, 1819 of 1989, 18437, 13500 etc. of 1988, 1522, 1539, 2190 and 2797 of 1989

Nanjanayaka and

APPELLANT

Vs

State of Karnataka and others

RESPONDENT

Date of Decision : 11-04-1989

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 300A, 301

Mines and Mineral (Development and Regulation) Act, 1957 — Section 15, 16, 19, 3, 4

Citation : AIR 1990 Kar 97 : (1989) 2 KarLJ 202

Hon'ble Judges : S.G. Doddakale Gowda, J

Bench : Single Bench

Advocate : D.L.N. Rao, L.K. SrinivasamurthyM/s. Law Associates, K.B. Shivakumar, N.Y. Hanumanthappa, Udaya Holla, P. Vishwanatha Shetty and M.R. Lakshmikanth Rajeurs, for the Appellant; N. Devadas, Govt. Pleader, for the Respondent

Judgement

1. Common prayer in these series is to issue a writ in the nature of mandamus to forbear respondents from interfering with their right to excavate, remove and transport granite found in his/their patta land/s.

2. Most of the petitioners are from old State of Mysore and a few from Kollegal, which on re-organization has become part and parcel of Mysore District. They trace their right to excavate granite either to proviso to S. 38 of Mysore Land Revenue Code and notification issued thereunder or the Madras Board Standing Order. In support of their prayer, reliance is placed on catena of decisions of this Court to which a reference would be made a little later.

3. Respondents in their statement of objections dispute their right to extract minor minerals except in accordance with the Rules framed under S. 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as the "Act") Specific reference is made to Ch. II of the Karnataka

Minor Mineral Concession Rules, 1969 (hereinafter referred to as the "Rules") and Rr. 3 and 3A which prohibit quarrying of black granite or pink granite, except in accordance with the licence issued under the Rules. In view of the statutory provisions petitioners have no right to quarry either black granite or pink granite in areas coming under Kollegal, Kanakaputa, Tumkur, Bellary, Bijapur and other places save as otherwise provided in these rules. Quarrying of black or pink granite by private persons is prohibited under law, hence, not entitled to the relief. Referring to provisions contained in the Land Reforms Act, it is contended that even the tenant in whose favour occupancy right is conferred is also not entitled ipso facto to excavate granite except in accordance with the Rules. Respondents contend that neither the provisions of the Mysore Land Revenue Code or Karnataka Land Revenue Act nor the Madras Board Standing Order is of any assistance. The so called notification on which reliance is placed has not exempted excavation of precious stones like black and pink granite and in the absence of any notification, they have no right to excavate those minor minerals. Referring to the decision in *M. Veera Madhu v. Deputy Commr., Mysore District, Mysore* (writ petition No. 4563 of 1987 Dt: 14th July, 1987) it is contended that this Court has proceeded on the premise that there was no material to establish quarrying of black granite and pink granite or other precious stones were not exempted under proviso to S. 38 of the Land Revenue Code; unless there is a declaration as contemplated under R. 2(g) of the Rules no quarrying operation can be carried on. In the absence of any declaration by the Controlling Officer, they have no right to quarry. Their right to quarry black or pink granite or precious stones is not saved under any provisions of law or any instrument. Provisions contained in Ch. III or Ch. V of the Rules providing for quarry by private persons will not automatically confer right to quarry. There is no material to establish that rights of petitioners in or over these precious materials have been granted to them. Relying on the notification, dated 1st Aug., 1987, produced as Annexure R-1 it is contended that the Director of Mines and Geology in the State of Karnataka has specified black, pink and grey granites as minor minerals for the purpose of Cl. (k) of sub-r. (1) of R. 2 of the Rules, as such, these minerals can be exploited only by the State Government or by any Corporation wholly owned by the State Government. Supreme Court, in *State of Karnataka and another v. Prasad Granites* (Civil Appeal No. 3130 of 1985) while upholding the validity of R. 3A of the Rules has held that the Rules prohibit grant or renewal of leases for quarrying black granite in favour of private persons.

Apart from the provisions relating to the minor minerals specified in the Act and the Rules, the quarrying operations attract the provisions of Explosives Act and in violation of the provisions of the Explosive Act, many petitioners have indulged in unauthorised quarrying. Without securing permission under the Explosives Act, they are not entitled to quarry. Apart from this, the quarrying operations affect various other laws relating to Environment and Ecology. Therefore, there is no right in petitioners to win minerals whatever may be the position or circumstances and there is no statutory obligation on these authorities to grant

lease in contravention of Rules relating to Mines Act and other mandatory provisions contemplated under the Explosives Act; Law relating to Environment and Ecology, Pollution Control Act, Forest Preservation Act, Wild Life Protection Act, which impose serious restrictions.

Referring to the facts of each case, respondents deny or do not admit they are the pattadars and in some cases, referring to grant made by the Government under Land Grant Rules and conferment of occupancy right under the provisions of the Land Reforms Act contend such orders/grants do not confer right to quarry precious stones.

4. With these pleadings, the following issues arise for consideration:--

(1) Whether the petitioners as pattadars are entitled to excavate, remove, transport black, and pink granites and other precious stones?

(2) Whether the catena of decisions on which reliance is placed set at rest the controversy?

5. Parallel source of power to legislate on mines and minerals is traceable to Entry 54 of List I of Seventh Schedule and Entry 23 of List II of Seventh Schedule. Entry 23 of List II of Seventh Schedule of the Constitution is "regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union." Entry 54 of List I of Seventh Schedule is "regulation of mines and minerals development to the extent to which such regulation and development under the control of the Union" is declared by Parliament by law to be expedient in the public interest. The Parliament has enacted the Mines and Minerals (Regulation and Development) Act, 1957 to provide for regulation of mines and minerals under the control of the Union. This Act has been amended from time to time and the last amendment is by Central Act 37 of 1986.

6. Conspectus of the Act be stated thus:--

Act contains a declaration in terms of Entry 54 of List I and it reads thus:--

"It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided."

"Minerals" includes all minerals except mineral oils.

"Mining lease" means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose.

"Mining operations" means any operations undertaken for the purpose of winning any mineral.

"Minor minerals" means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other minerals which the Central Government may, by notification in the Official Gazette, declare to be a

minor mineral.

No person shall undertake any prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a prospecting licence or, as the case may be, a mining lease, granted under this Act and the rules made thereunder --Section 4(1).

No prospecting licence or mining lease shall be granted otherwise than in accordance with the provisions of this Act and the rules made thereunder -- Section 4(2).

Amended S. 4A provides for termination of prospecting licence or mining leases both by Central Government and the State government on grounds mentioned therein.

Sections 5 to 8 deal with restriction of grant of prospecting licence or mining leases. Sections 9 and 9A provide for payment of royalty and dead rent. Sections 10 to 12 provide procedure for obtaining prospecting licence or mining leases in respect of the land in which the minerals vest with Government.

Central Government is competent to make rules regulating the grant of prospecting licence and mining leases in respect of minerals and for the purposes connected therewith -- Section 13.

Section 14 states that provisions of Ss. 5 to 13 (inclusive) shall not apply to quarry leases, mining leases or other mineral concessions in respect of minor minerals.

Section 15 confers power on State Government to make rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith. Sub-section (2) of S. 15 states that until rules are made under sub-sec. (1) any rules made by State Government regulating grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals which are in force immediately before the commencement of this Act shall continue in force.

Section 16 stipulates that all mining leases before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972 (Act 56 of 1972) shall be brought in conformity with the provisions of this Act and the rules made thereunder within six months from such commencement, As per cl. (b) of sub-s. (1) of S. 16 rights under any mining lease granted by a proprietor of an estate or tenure if vested with the State Government pursuant to the acquisition of estates or tenures in implementation of agrarian reforms, such mining lease also shall be brought in conformity with the provisions of the Act and the Rules within six months from the date Amendment Act 56 of 1972 came into force.

Section 18 states that it shall be the duty of the Central Government to take all steps as may be necessary for the conservation and systematic development of

minerals in India and for the protection of environment by preventing or controlling any pollution which may be caused by prospecting or mining. operations and for such purposes may make rules as it thinks fit on topics mentioned in sub-s.(2).

Section 19 states that any prospecting licence or mining lease granted, renewed or acquired in contravention of the provisions of this Act or any rules or orders made thereunder shall be void and of no effect.

Rest of the section provides for enforcement of the provisions of the Act and mode of seeking redressal.

7. For proper understanding, it is necessary to refer to relevant Rules framed by the State of Karnataka in exercise of powers conferred under S. 15 of the Act.

Chapter I deals with definitions.

"Minor Mineral" means a minor mineral as defined in Cl. (e) of S. 3 of the Mines and Minerals (Regulation and Development) Act, 1957.

"Quarrying Lease" means a lease granted to quarry a Minor Mineral.

"Quarrying Permit" means a permit for quarrying and removal of any specified quantity of minor mineral.

Chapter II deals with grant of quarrying lease in respect of land in which minor minerals belong to Government. No quarrying lease shall be granted to any person other than an Indian citizen except with the prior approval of the Government. No quarrying lease shall be granted in respect of any specified minor mineral, except with the prior approval of the Controlling Officer -- vide sub-Rr. (1) and (3) of R. 3.

Under R. 3-A no lease for black granite or pink granite shall be granted to private persons. The Government themselves may engage in quarrying black granite or pink granite and grant lease in favour of any Corporation wholly owned by the State Government. As per explanation black granite includes dyke rocks of dolerite and related rock dyke. Every application for quarrying lease in respect of any land in respect of which the mineral belongs to Government shall be in Form A to the Competent Officer furnishing particulars set out in R. 4. Rules 6 to 25 provide mode of disposal, the period for which a lease can be extended/renewed; conditions that can be imposed for quarrying, surrender, right of pre-emption surrender etc.

Chapter III deals with grant of quarrying lease in respect of lands in which minor minerals belong to private persons. This Chapter applies to quarrying leases granted by private persons. No quarrying lease or any right, title or interest therein shall be granted or obtained in respect of lands in which any minor mineral belongs to a private person except in accordance with the provisions of this Chapter -- vide R. 26. Quarrying lease granted to a private person shall be subject to the provisions of Rr. 3 and 16 and most of conditions imposed in R. 20.

Chapter IV deals with grant of quarrying permit in respect of lands in which minerals belong to Government. Competent Officer may grant a quarrying permit to any person to extract and remove from any specified land within his jurisdiction any minor mineral not exceeding in quantity 1000 tons under any one permit on payment of royalty calculated at rates specified in the First Schedule -- vide R. 34. Application is required to be filed in Form No. 1. Consent of occupant or owner is required to be enclosed -- vide R. 36.

Chapter V deals with lands in possession of an occupant (a Raithwari, Pattadar, etc.) in which Government have claim only to a share of mineral. As per R. 38, the provisions of this Chapter apply to lands in possession of Ryotwari Pattadar in Madras area and the Bellary District, who shall be deemed to be occupant within the meaning of S. 2(2) of the Karnataka Land Revenue Act, 1964 and also lands held by a Mulgenidar in South Kanara District and in which Government claim only a share of mineral. Under R. 39, the occupant may remove any minor mineral on a small scale for his own use for a specific bona fide domestic or agricultural purpose provided that he has no intention of continuing quarrying operations indefinitely and provided further that the land is not in anyway rendered less fit for cultivation than before. Removal of mineral on large scale is subject to payment of royalty at the rate specified in First Schedule -- vide R. 40. R. 41 provides for procedure for quarrying. Whenever quarrying operations are done without giving notice as required by R. 41, the occupant and the contractor shall be jointly and severally liable to pay enhanced royalty. The question whether quarrying operations are carried on large scale within the meaning of this rule shall be determined by the Deputy Commissioner of the District -- vide R. 43. On receipt of notice under R. 41, the Deputy Commissioner may if he seems no valid objections, allow operation to be commenced on the occupant executing an agreement in Form M binding himself to accept the conditions and stipulations set out in Rr. 45 to 56 and on depositing security as the Deputy Commissioner may consider sufficient to restore the land fit for cultivation -- vide R. 44. The rest of the Rules in this Chapter deal with the obligation to be discharged at the time of quarrying and collecting royalty looking to safety and settlement of disputes, if any.

Chapter VI deals with grant of mining leases by public auction.

Chapter VII deals with Miscellaneous Provisions such as exercise of revisional power, power of entry and inspection, relaxation, etc.

8. Sri H. B. Datar, learned Senior Advocate for petitioners, submitted that as all the points urged by the State have been negated by catena of cases by this Court both of learned single Judges including of my own and a Division Bench, the issue involved is no longer *res integra* and petitioners are entitled to the relief sought for as has been granted in those cases.

9. K. A. Swami, J., in *M. Veeramadhu v. Deputy Commr., Mysore* (W.P. No. 637 of 1985; D/- 6th June, 1985) relying on the decision of the Supreme Court in *State*

of Tamil Nadu Vs. Hind Stone and Others, , has allowed the writ petition on the ground that R. 8C of the Tamil Nadu Mining Mineral Concession Rules, 1959 is on pari materia with Rule 3-A of the Rules.

Chandrakantaraj Urs, J., in M. Veeramadhu v. Deputy Commr., Mysore (W.P. No. 4563 of 1987 and other connected cases; D/- 14th June, 1987) referring to proviso to S. 38 of the Mysore Land Revenue Code and S. 70 of the Land Revenue Act and the Notification issued by the erstwhile State of Mysore in 1902 held that an owner of patta-land in the erstwhile State of Mysore continued to have mineral rights in respect of lime stones and granite and other minerals specified in the notifications. Relevant portion reads thus:--

"This Court must rule that the proprietors are the owners of the lands themselves of such minerals. No legislation is brought to my notice which has the effect of altering the legal position that I have pointed out."

In respect of owners of lands in Kollegal Taluk relying on the decision of the Supreme Court in State of Tamil Nadu Vs. Hind Stone and Others, held thus:--

"Therefore, this Court must hold that Pattadars in Kollegal Taluk or any other area of Karnataka State which was comprised in the erstwhile State of Madras enjoyed the same proprietary rights as other owners of Land in the erstwhile State of Mysore."

And referring to the Rules held:--

"An extensive reading of the provisions contained in Ch. III does not give any indication that the owner of the land if he intends to quarry the granite occurring in his land is either required to obtain permission from any authority or observe any particular rule under the.....

Therefore, by and large what emerges is that owners of minerals are free to exploit that mineral without either requiring permission from any agency or any permit for quarrying whether it is the ordinary minor mineral or specified mineral notwithstanding the distinction."

Writ Appeals Nos. 2057 to 2097 of 1987 filed as against this order have been dismissed. Sri N. Devadas, learned High Court Government Advocate, submitted that the State has preferred SLP and matters are awaiting admissions. Following these decisions, I have also disposed of a couple of writ petitions.

10. Sri N. Devadas, learned High Court Government Advocate, maintained that the decisions rendered without reference to the relevant provisions in the Act and the Rules and the binding decisions of the Supreme Court are no decisions at all and they should be held per incuriam. He submitted that the salient provisions of the Act including amendments are not at all referred to and the ratio of the decision of the Supreme Court, to which a reference would be made little later, though binding as per Art. 141 of the Constitution of India has been ignored or not taken note of. He also submitted that in view of the latest Notification, dated

1st Aug., 1987 (Annexure R-I), matter requires a second look.

Submission of learned Government Advocate was that the entire field of regulating, mines, minerals and development is covered by an Act enacted by the Parliament under Entry 54 of List I of Seventh Schedule and rights, if any, under the State Laws get extinguished. He also contended that the quarrying can only be in accordance with the provisions of the Act and the Rules framed thereunder and the vested right to quarry granite is saved is a misnomer or a misconception.

11. In *The Hingir-rampur Coal Co. Ltd. and Others Vs. The State of Orissa and Others*, the validity of Orissa Mining Areas Development Fund Act authorising to levy of cess was challenged and in that context the Supreme Court examining the scope of Entry 54 of List I and Entry 23 of List II of Seventh Schedule, has stated thus (at pp. 469-470 of AIR):--

"Its validity (the demand of the Fee under the Orissa Act) is still open to challenge because the legislative competence of the State Legislature under Entry 23 is subject to the provisions of List I with respect to regulation and development under the control of the Union; and that takes us to Entry 54 in List I.The effect of reading the two Entries together is clear. The jurisdiction of the State Legislature under Entry 23 is subject to the limitation imposed by the latter part of the said Entry. If Parliament by its law has declared that regulation and development of mines should be in public interest be under the control of the Union, to the extent of such declaration the jurisdiction of the State Legislature is excluded. In other words, if a Central Act has been passed which contains a declaration by Parliament as required by Entry 54 and if the said declaration covers the field occupied by the impugned Act, the impugned Act would be ultra vires, not because of any repugnance between the two statutes but because the State Legislature had no jurisdiction to pass the law. The limitation imposed by the latter part of Entry 23 is a limitation of the legislative competence of the State Legislature itself. This position is not in dispute..... What Entry 23 provides is that the legislative competence of the State Legislature is subject to the provisions of List I with respect to regulation and development under the control of the Union, and Entry 54 in List I requires a declaration by Parliament by law that regulation and development of mines should be under the control of the Union in public interest. Therefore, if a Central Act has been passed for the purpose of providing for the conservation and development of minerals, and if it contains the requisite declaration, then it would not be competent to the State Legislature to pass an Act in respect of the subject-matter covered by the said declaration. In order that the declaration should be effective it is not necessary that rules should be made or enforced; all that this required is a declaration by Parliament that it is expedient in the public interest to take the regulation and development of mines under the control of the Union. In such a case the test must be whether the Legislative declaration covers the field or not. Judged by this test there can be no doubt that the field covered by

the impugned Act is covered by the Central Act LIII of 1948."

However, noticing that the Central Act 53 of 1948 was a pre-constitutional law and in terms of Entry 54, Parliament had not made the requisite declaration and Orissa Mining Areas Development Fund Act was a post-constitutional enactment, upheld the levy of cess by the State of Orissa.

12. For the second time, when the same issue arose as could be seen from the decision in *State of Orissa Vs. M.A. Tulloch and Co.*, after referring to the State power in the light of Cl. (3) of Art. 246 of the Constitution of India and the legislative competency with reference to Entry 54 of List I and Entry 23 of List II has stated thus (at p. 1287 of AIR):--

"Coming now to the Seventh Schedule, Entry 23 of the State List vests in the State Legislature power to enact laws on the subject of "regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union." It would be seen that "subject" to the provisions of List I the power of the State to enact Legislation on the topic of "mines and mineral development" is plenary. There is no controversy that the Central Act has been enacted by Parliament in exercise of the Legislative power contained in Entry 54 or as regards the Central Act containing a declaration in terms of what is required by Entry 54 for it enacts by S. 2:

It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals to the extent hereinafter provided.

It does not need much argument to realise that to the extent to which the Union Government had taken under "Its Control" "the regulation and development of minerals" so much was withdrawn from the ambit of the power of the State Legislature under Entry 23 and Legislation of the State which had rested on the existence of power under that entry would to the extent of that "control" be superseded or be rendered ineffective, for here we have a case not of mere repugnancy between the provisions of the two enactments but of a denudation or deprivation of State legislative power by the declaration which Parliament is empowered to make and has made.

6. It would, however, be apparent that the State would lose legislative competence only to the "extent to which regulation and development under the control of the Union has been declared by Parliament to be expedient in the public interest."

It is necessary to notice that the State succeeded for the second time as the demand was prior to 1st of June, 1959, the date on which the Central Act 67 of 1957 came into force.

13. The same view is reiterated in *Baijnath Kadio Vs. State of Bihar and Others*, and it reads thus: (at pp. 1443 to 1445 of AIR)-

"Entry 54 of the Union List speaks both of Regulation of mines and mineral Development and Entry 23 is subject to Entry 54. It is open to Parliament to declare that it is expedient in the public interest that the control should rest in Central Government. To what extent such a declaration can go is for Parliament to determine and this must be commensurate with public interest. Once this declaration is made and the extent laid down, the subject of legislation to the extent laid down becomes an exclusive subject for legislation by Parliament. Any legislation by the State after such declaration and trenching upon the field disclosed in the declaration must necessarily be unconstitutional because that field is abstracted from the legislative competence of the State Legislature. This proposition is also self-evident that no attempt was rightly made to contradict it. There are also two decisions of this Court reported in *The Hingir-rampur Coal Co. Ltd. and Others Vs. The State of Orissa and Others*, and *State of Orissa Vs. M.A. Tulloch and Co.*, in which the matter is discussed. The only dispute, therefore, can be to what extent the declaration by Parliament leaves any scope for legislation by the State Legislature. If the impugned legislation falls within the ambit of such scope it will be valid; if outside it, then it must be declared invalid."

"We have already analysed Act 67 of 1957. The Act takes over the control of regulation of mines and development of minerals to the Union; of course, to the extent provided. It deals with minor minerals separately from the other minerals. In respect of minor minerals it provides in S. 14 that Ss. 4-13 of the Act do not apply to prospecting licences and mining leases. It goes on to state in S. 15 that the State Government may, by notification in the official Gazette, make rules for regulating the grant of prospecting licences and mining leases in respect of minor minerals and for purposes connected therewith, and that until rules are made, any rules made by the State Government regulating the grant of prospecting licences and mining leases in respect of minor minerals which were in force immediately before the commencement of the Act would continue in force. It is admitted that no such rules were made by the State Government. It follows that the subject of legislation is covered in respect of minor minerals by the express words of S. 15(1). Parliament has undertaken legislation and laid down that regulation of the grant of prospecting licences and mining leases in respect of minor minerals and for purposes connected therewith must be by rules made by the State Government. Whether the rules are made or not the topic is covered by Parliamentary legislation and to that extent the powers of State legislature are wanting. Therefore, there is no room for State legislation.

"Union consists of its three limbs, namely, Parliament, Union Government and the Union Judiciary, Here the control is being exercised by Parliament, the legislative organ of the Union and that is also controlled by the Union. By giving the power to the State Government to make rules, the control of Union is not negated. In fact, it establishes that the Union is exercising the control. In view of the two rulings of this Court referred to earlier we must hold that by enacting S. 15 of Act 67 of 1957 the Union has taken all the power to itself and authorised the State Government to make rules for the regulation of leases. By the

declaration and the enactment of S. 15 the whole of the field relating to minor minerals came within the jurisdiction of Parliament and no scope was left for the enactment of the second proviso to S. 10 in the Land Reforms Act."

"We have also held that entry 23 of List II was to that extent cut down by entry 54 of List I. The whole of the topic of minor minerals became a Union Subject. The Union Parliament allowed rules to be made but that did not recreate a scope for legislation at the State level."

14. Unlike other statutes though there was no legislation on the subject in old State of Mysore and integrated area of Madras State, the winning of minor minerals was enjoyed by virtue of exemption given under proviso to S. 38 of the Mysore Land Revenue Code and Board Standing Orders of the erstwhile State of Madras.

15. Section 38 of the Land Revenue Act" (Code) reads thus :

"Right to metals and Minerals to vest in Government-- Unless it is otherwise expressly provided by the terms of any grant made or of any other instrument of transfer executed by the Government for the time being the right to all precious metals, precious stones, coal and other minerals to be extracted by any process of mining from any lands whatsoever, shall vest absolutely in the Government and the Government shall have all the powers necessary for the proper enjoyment or disposal of such rights :--

Provided that :

(i) Nothing in this section shall be deemed to apply to limestone, granite and such other ordinary minerals, as the Government, by notification in the Official Gazette, may from time to time exempt from the scope of this section;"

(ii)....."

In exercise of powers conferred under proviso to S. 38, the notification issued reads thus:

"APPENDIX F(2)

MINERALS EXEMPTED FROM THE

SCOPE OF SECTION 38 OF THE LAND REVENUE CODE.

Under S. 38, proviso (1), of the Mysore Land Revenue Code, the Government of Mysore are pleased to direct that the following, in addition to granite and limestone mentioned therein, be regarded as ordinary minerals which shall be exempt from the scope of S. 38, namely :--

(1) Trap,

(2) Kankar,

(3) Sandstone,

- (4) Slate,
- (5) Quartz,
- (6) Laterite, and
- (7) Brick earth."

By Amendment Act I of 1956 words "(Subject to the Provisions of Mines and Minerals (Regulation and Development) Act, 1948 (Central Act LIII of 1948)" have been inserted between the words "Government shall..... have all the powers." Land Revenue Code is substituted by Land Revenue Act with effect from 1-4-1964. S. 70 of the 1964 Act reads thus :

"Right to mines and mineral products vest in Government.

----- Save as otherwise expressly provided under any law in force before the commencement of this Act or under the terms of any grant made or of any other instrument of transfer executed, by on behalf of the Government for the time being, the right to mines, minerals and mineral products, shall vest absolutely in the State Government and the State Government shall, subject to the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957) have all the power necessary for the proper enjoyment of disposal of such rights."

16. The relief was founded on the plea that the petitioners are the absolute owners of minerals (granite) found in their land and the same vest with the petitioners; respondents have no right in or over said minerals and cannot act detrimental to the interest of petitioners; interference with quarrying granite on the ground that it vests with the State Government and the insistence to obtain permission from the Department of Mines and Geology was illegal and without jurisdiction; the insistence to obtain permission despite plethora of decisions of this Court was illegal and unjust. Action of respondents in obstructing quarrying, excavation and transportation of granite from the land/quarry of the petitioners was wholly illegal and violative of fundamental rights guaranteed under Arts. 14, 19 and also violative of Arts. 300A and 301 of the Constitution of India.

17. It is relevant to notice that the petitioners strongly relying on the proviso to S. 38 of the Code which exempted limestone granite and such other ordinary minerals as the State Government may notify from time to time and Madras Board Standing Order contend that their vested right to quarry these minor minerals remain unimpaired. This argument is fallacious. As soon as the legislative field was covered by enacting an Act, under Entry 54 of List I, there remained no power with the State either to exempt or to continue exemption. As has been observed by the Supreme Court in the later case underlined at pages 43 and 44 "any legislation by the State after such declaration and trenching upon the field disclosed in the declaration must necessarily be unconstitutional because that field is abstracted from the legislative competence of the State Legislature..... Whether the rules are made or not the topic is covered by

Parliamentary legislation and to that extent the powers of the State Legislature are wanting." Nowhere the decisions of this Court cited by the learned Advocate refer to the decision of the Supreme Court extracted above and the views expressed therein regarding the effect of the State Legislation, consequence of repeal of State Law by the Central Law and amendments to the Act.

18. It is apposite to refer to the decision of the Supreme Court in *Harishchandra Vs. State of Madhya Pradesh*, in order to understand the applicability of the ratio of the said case to the present cases it is better to know the facts which lead to that enunciation.

In exercise of delegated power under S. 4 of Madhya Bharat Essential Supplies (Temporary Powers) Act, 1948, the Director of Civil Supplies promulgated an order on 4-6-1949 known as Madhya Bharat Iron Steel and Scrap (Production, Procurement and Distribution) Control O., 1949. Cl. 5 of the said order empowered to specify from time to time, the prices, wholesale and retail, at which iron and steel, scrap or specified articles made thereof may be sold by producer, controlled stock holder, registered stock holder, a controlled dealer and a merchant. By another order of even date, Director specified that the price schedules as may be in force for the time being under Iron and Steel Scrap Control Order in the Indian Union in respect of sales by producers, controlled and registered stock holders and scrap merchants, shall apply mutatis mutandis to sales by the aforesaid persons in Madhya Bharat. Classification of dealers and price was more or less on same lines as that of Indian Scrap Order, 1943. On the basis of recommendation of the Advisory Committee, State Government permitted variation of price to be charged by the Association of which the appellant was the President as per direction given on 26-8-1949.

Madhya Bharat Essential Supplies (Temporary Powers) Amendment Act, 1950 (Act 52 of 1950) under which the Essential Supplies (Temporary Powers) Act of 1946 was extended to Part B, State, with effect from 17-8-1950.

The question that arose for consideration was -- Whether the direction or the modification of the prices fixed under S. 5(i) of MBS Control Order by incorporating the notification by the Steel Controller of the Government of India, in its text, subsisted in 1956 when the sales which are stated as being in contravention of the Indian Scrap Order, took place?

Dealing with consequences of S. 17(4) of the Act which stated that the corresponding law of the State shall stand repealed, it is stated thus :

"If the main part of sub-sec. (4) stood alone without the proviso, the effect would have been not merely a repeal of the Madhya Bharat Essential Supplies (Temporary Powers) Act, 1948 which was "a corresponding Law" which was in force in that State, but with that repeal, all the subordinate legislation enacted thereunder including the Control Orders as well as the orders of the Director fixing prices would also have stood repealed."

Referring to notification of Government of India, dated 12-9-1959 by which the Indian Scrap Order-1943 was extended to Madhya Bharath and after noticing that Madhya Bharath Control Order and Indian Scrap order both cannot operate simultaneously held that the Madhya Bharath Control Order stood repealed. Dealing with the contention that a direction dated 26-8-1949 was a special law and an independent piece of legislation and not affected by repeals and saved by principles underlying similar to one incorporated in S. 24 of the General Clauses Act, has stated thus:

"We find ourselves unable to accept this argument. The concession allowed to the Association by the notification dated Aug. 26, 1949 could be looked at from one of two alternative positions. The direction could be viewed as in effect a modification of the prices fixed under S. 5(1) of the Madhya Bharat Order by the Director so that in law it should be deemed to have been incorporated in that price fixation and become, as it were, the price fixed by the Controller. The effect of this would be that in Madhya Bharat before the extension of the Indian Scrap order the maximum prices chargeable by the specified type of dealer falling under column II would be those applicable to dealers in column III. If this were the true position, the result would be that when the Indian Scrap Order was made applicable to Madhya Bharat without a saving or special provision as regards sales by the Association, it would supersede that law and the special classification effected by the Madhya Bharat law would cease to be in force.

(17) The other alternative would be that the notification dated Aug., 26, 1949 was an independent piece of subordinate law-making under the Essential Commodities Act and the Madhya Bharat Scrap Order, and it was this aspect that was stressed by Mr. Agarwala. Even if that be so, the appellant would derive no advantage from this, because there has been a repeal not merely of the Madhya Bharat Essential Supplies Act no doubt with a saving but of the Madhya Bharat Scrap Order without a saving and on the repeal of the Scrap Order under which the subordinate rule or regulation was effected and latter would also stand repealed. As explained by Lord Reading, C.J. in *Waston v. Winch* (1916) 1 KB 688.

"It has been long established that, when an Act of Parliament is repealed it must be considered (except as to transactions passed and closed) as if it had never existed. It would follow that any by-law made under a repealed statute ceases to have any validity unless the repealing Act contains some provision preserving the validity of the by-law notwithstanding the repeal."

Admittedly, there is no saving clause either in the notification of the Central Government by which the Indian Scrap Order was extended to Madhya Bharat nor, of course, in the Scrap Order itself. As the parent order under which the notification was made has been repealed without a saving, the effect must be that the notification dated Aug. 26, 1949 must, if it were held to be an independent subordinate legislation, be held also to have been repealed."

Repelling the contention that principles underlined in S. 24 of the General Clauses Act would apply stated thus:--

"But this argument, however, proceeds on assuming that S. 24 was declaratory of the common rule of interpretation and that even in the absence of S. 24 the same principle of law would apply. The position apart from a statutory provision such as is found in S. 24 of the General Clauses Act, is thus summarised in Craies on Statute Law 6th Edn. 334.

"If the statute under which by-laws are made is repealed, those by-laws are impliedly repealed and cease to have any validity unless the repealing statute contains some provision preserving the validity of the by-law notwithstanding the repeal. This follows from the rule..... When an Act of Parliament is repealed it must be considered (except to transactions passed and closed) as if it had never existed." This submission has, therefore, no merit and must be rejected."

19. Crawford on Construction of Statutes has stated thus:

"Not only inconsistent or irreconcilable subsequent independent enactments or enactments covering the same subject as that covered by an existing statute, operate to repeal such prior statute by implication, but the same result will occur by virtue of the enactment of an amendatory act, or a revision or codification. In the first place, an outright repeal will destroy the effectiveness of the repealed act in future, and operate to destroy inchoate rights dependent on it, as a general rule. In many cases, however, where statutes are repealed, they continue to be the law for the period during which they were in force with reference to numerous matters..... Strong expression may be found in the books against legislative interference with vested rights; but it is not conceivable, that after allowing the few restrictions, any further bounds can. be set to legislative power by written prescription....."

20. This Court in judgment cited supra including of my own did not dwell on the proposition, that in view of the proviso to Art. 254(2) of the Constitution of India and amended provisions of the Act and the Rules framed thereunder what was the efficacy of proviso to S. 38 of the Code and the Madras Board Standing Orders vis-a-vis the rights of petitioners. Cl. (1) of Art. 254 states that the law made by Parliament in respect of matters enumerated in concurrent list subject to Cl. (2) shall prevail and the law of the State Legislature shall to the extent of repugnancy be void. Cl. (2) states that the law made by the Legislature of the State on topics enumerated in concurrent list if contains any provision repugnant to provisions of an earlier law made by Parliament or existing State law shall prevail if it has received the assent of the President, The Proviso states that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including the law adding to, amending, varying or repealing the law so made by the Legislature.

21. From Entry 54 of List I and Entry 23 of List II extracted above and from decisions of constitution Benches of the Supreme Court quoted in extenso, the

Act enacted by Parliament declaring that it is expedient in public interest that Union should take over under its control the regulation of mines and or conservation and systematic development of minerals in India would prevail over State Law. The Law relating to mines and minerals may not fall in concurrent list so as to attract either the principles embodied in Art. 246 or 254 of the Constitution, yet both Parliament and State Legislature are competent to enact law on the subject, with this difference, viz., if the law enacted by Parliament with a declaration covers the field to that extent the powers of the Legislature stand abstracted. The winning of minerals permissible under proviso to S. 38 of the Code and the Madras Standing Orders, being species of law, relating to minor minerals must necessarily yield to the Act.

22. The power of the State Legislature to exempt certain minor minerals including those specified in the notification became affected as it was repugnant to the provisions of the Act or suffered legislative competence or in the words of the Supreme Court extracted above, "the powers of the State Legislature are wanting". It is on account of this only, the proviso to S. 38 of the Code has been omitted and S. 70 of the Land Revenue Act was re-enacted. Hence, saving of rights, if any, derived under proviso to S. 38 of the Code and the Madras Board Standing Order will have to be determined with reference to the Act as that is the law which covers the field and not with reference to S. 202 of the Land Revenue Act.

23. Section 6 of the General Clauses Act states that when a Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made; then unless a different intention appears, the repeal shall not (a)..... (b)..... (c) affect any right privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed and legal proceeding initiated would continue as if the repealing Act had not been passed..... If it is a case of mere repeal there is scarcely any room for expression of any contrary opinion, but when the Legislation on the same subject, is followed or re-enacted necessarily one must look into the provisions of the Act and determine whether the new Act expressly keeps alive old rights and liabilities or manifest a different intention destroying existing rights.

24. Supreme Court in *M/s. Munshilal Beniram Jain Glass Works v. S. P. Singh* (1971) 2 SCJ 307 : 1971 Lab IC 6 dealing with the similar situation has held thus :

"Section 6 would seem to us to apply to a case of repeal even if there is a simultaneous enactment unless a contrary intention appears from the new enactment. As observed by this Court in the *State of Punjab v. Mohar Singh* AIR 1955 SC 84, whenever there is a repeal of an enactment, the consequences laid down in S. 6 of the General Clauses Act will follow unless, as the section itself says, a different intention appears. In the case of a simple repeal there is scarcely any room for expression of a contrary opinion. But when the repeal is followed by fresh legislation on the same subject we would undoubtedly have to

look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention. The line of enquiry would be, not whether the new Act expressly keeps alive old rights and liabilities but whether it manifests an intention to destroy them. We cannot therefore subscribe to the broad proposition that S. 6 of the General Clauses Act is ruled out whenever there is a repeal of an enactment followed by a fresh legislation. S. 6 would be applicable in such cases also unless the new legislation manifests an intention incompatible with or contrary to the proposition of the Section. Such incompatibility would have to be ascertained from a consideration of all the relevant provisions of the new law and the mere absence of a saving clause is by itself not material."

25. In *Sakharam @ Bapusaheb Narayan Sanas and Another Vs. Manikchand Motichand Shah and Another*, Supreme Court has approved the dictum of the Privy Council in *Abbot v. Minister for Lands* (1895) AC 425 which reads thus:--

"Mere right to take advantage of an enactment without any Act done by an individual towards availing himself of that right cannot properly be deemed to be a right accrued."

That which is accrued or that which is being persuaded has to be saved but that which merely exists or that which can be persuaded is not saved.

26. Bearing these provisions and the principles in mind, let me now examine whether the Act has expressed any different intentions or saved the existing right, if any. S. 4 of the Act has been made applicable to all mining operations, as S. 14 has been amended restricting non-applicability of Ss. 5 to 13 (inclusive) only to minor minerals. S. 4(1) and (2) reads thus :

"4.(1) No person shall undertake any prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a prospecting licence or, as the case may be, a mining lease, granted under this Act and the rules made thereunder :

xxxxx xxxxx xxxxx

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

(3) xxxxx xxxxx xxxxx"

Amended S. 4A provides for termination of mining leases in circumstances mentioned therein. S. 16 states that all mining leases granted before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972 (Act 56 of 1972) if in force shall be brought in conformity with the provisions of the Act and the Rules framed thereunder within six months. S. 19 of the Act which reads thus :

"Any prospecting licence or mining lease granted, renewed or acquired in contravention of the provisions of this Act or any rules or orders made

thereunder shall be void and of no effect."

declares that acquisition of rights in or over minerals in contravention of the provisions of the Act and the rules shall be void and ineffective. In order to give effect to these provisions the State has framed rules in exercise of its powers conferred under S. 15. "Quarrying lease" is defined to mean lease granted to quarry a minor mineral. "Quarrying permit" means, permit for quarrying and removal of any specified quantities of a minor mineral. Sub-rules (2) and (3) of Rule 3 read thus :--

"3(2) No quarrying lease shall be granted in respect of any land notified by Government as reserved for use by Government or for any other public or special purpose.

3(3) No quarrying lease shall be granted in respect of any specified minor mineral, except with the prior approval of the Controlling Officer."

Specified minor mineral" means such minor minerals as may be specified by the Controlling Officer by a notification published in the Official Gazette.

The Director of Mines and Geology has issued notification, dated 1st Aug., 1987 in exercise of powers conferred under Cl. (k) of sub-rule (1) of R. 2 of the Rules specifying the following minor minerals as specified minor minerals. The notification reads thus:--

"No. 2 DMG/QLS 87. In exercise of powers conferred by Cl. (k) of sub-rule (1) of R. 2 of the Karnataka Minor Mineral Concession Rules 1969 and in partial modification of Notification, dated 4th Sept., 1969, the Director of Mines and Geology hereby specify the following minor minerals to be specified minor minerals for the purpose of the said clause, namely :--

(1) Ornamental and decorative building stones such as

(a) Black Granite and its varieties :-- All dark coloured basic dyke rocks including porphyritic and other varieties of different structural and textural patterns and shades of colours. Black, Green, Brown, Purple, Blue etc. suitable for use as ornamental stone.

(b) Pink Granite-Pick Granite rocks and its varieties :-- Red Granite rocks including gneissic, porphyritic and Aplitic varieties of different structural and textural patterns with relatively dominating red colour (when combined with other colours) and/or with different hues and shades of red colours suitable for use as ornamental stone.

(c) Grey Granite/Grey Granitic rocks and the varieties :-- Granitic rocks including Gneissic, Porphyritic and Aplitic varieties of different structural and textural patterns with relatively dominating Grey colour (when combined with other colours) and/or with different hues and shades of gray colour suitable for use as ornamental stone.

- (d) Felsites and its varieties suitable for use as Ornamental Stone.
- (2) Limestone under the title "Shahabad Stone".
- (3) Buller's Larth.
- (4) Lime Shell.
- (5) Agate, Chalcedony, Flint.
- (6) Quartzite and its varieties suitable for use as ornamental stone.

This would come into force with immediate effect."

Rule 3A states that no lease for quarrying black, pink or grey granites shall be granted to private persons. Sub-rule (2) of R. 3A states that the State itself may engage in quarrying black, pink and grey granites or grant lease for quarrying those varieties in favour of any Corporation wholly owned by the State Government. By virtue of this rule, except the State owned Corporation, no one has right to win these minor minerals.

27. These express provisions do not preserve any right accrued or derived under the State law and the right derived under proviso to S. 38 of the Code and Madras Board Standing Order, if any, are incompatible with the provisions of the Act. Except as to transaction past and closed the Statute; after its repeal is completely obliterated as if, it had never been enacted. That is why a distinction is drawn between a legal proceeding for enforcing a right acquired or accrued and a legal proceeding for acquisition of a right, the former is saved whereas the later is not. Dehors the provisions which are effaced by the Land Revenue Act (State enacting a uniform law on the subject on re-organisation) no other provision which has conferred on them the right to win minerals was brought to my notice. S. 70 of the Land Revenue Act itself states that right to mines and minerals and mineral products absolutely vest in State Government save as expressly provided under any law in force before the commencement of this Act or the terms of the grant and that vesting shall be subject to the provisions of the Mines and Minerals (Regulation and Development) Act, 1957. As already indicated, the Act instead of saving the existing right has manifested a different intention. In this view, it is preposterous to contend that their rights are saved under S. 202 of the Land Revenue Act.

28. In reply statement filed in writ petition No. 7979 of 1988 the petitioner admits this legal position. It reads thus:

"The entire field of Mines and Minerals is taken away by the Union as seen from entry 54 of List I of Seventh Schedule and declaration contained in S. 2 of MMRD Act. The Hon'ble Supreme Court has clearly held that in view of declaration in S. 2 of the Act, entire field is taken away and there is no scope for legislation by the State in this field."

Having accepted this legal position they contend thus:--

"What is contended and accepted by this Hon"ble Court is that owners of land in old Mysore area had right over granite found in their lands in view of S. 38 of Code which is saved under Ss. 70 and 202 of Land Revenue Act."

It is exactly such plea which the constitution Bench of the Supreme Court in *Bajinath Kadio Vs. State of Bihar and Others*, has negated stating "to that extent the powers of the State Legislature are wanting."

29. The conclusion of this Court in cases referred to above is buttressed by the last para of decisions of the Supreme Court in *State of Tamil Nadu Vs. Hind Stone and Others*, *Sri H.B. Datar*, learned Senior Advocate, fairly brought to my notice an order, dated 5-3-1982 passed by the Supreme Court in *Kandaswamy v. State of Tamil Nadu* (Writ Petn. No. 2164 of 1982) and it reads thus :

"Issue Rule in view of the judgement of this Court in *The District Collector of Hyderabad and Others Vs. Ibrahim and Co., etc.*, . Pending notice there shall be ex parte stay in terms of para 6(i) of the Stay Petition."

The Session referred to is no other than in *Bajinath's* case. The passage in *State of Tamil Nadu Vs. Hind Stone and Others*, on which reliance is placed has no bearing having regard to altered position in law. Firstly, there is no consideration of applicability of S. 4 of the Act even in respect of mining operation of minor minerals, because of the reason that the amendment is of the year 1987.

30. Secondly, there is no reference to repeal of a State law/Order, by law enacted by Parliament. Assuming that Madras Standing Order was an executive order under Art. 162 of the Constitution of India it had to yield place to law enacted by Parliament. Reasons assigned to negative the plea of pattadars of the Princely State of Mysore equally hold good to negative the plea of pattadars of Kollegal Taluk.

31. Thirdly, Rule cannot be construed in such a way so as to confer better right/privilege/benefit than what was lost under State Law or Order. It is not the case of the petitioner that these Rules confer such an absolute right to win minor minerals and there is no plea to that effect also. It is relevant to recapitulate what Bose, J., has stated in *The State of Bombay and Another Vs. The United Motors (India) Ltd. and Others*,

".....nevertheless I am not prepared to agree that Rules can save an Act. Rules are made by a subordinate authority which is not the legislature and I cannot agree that the validity of an Act of a competent legislature can be made to depend upon what some subordinate authority chooses to do or not to do."

Rules cannot be construed as having conferred better rights than they had under repealed laws.

32. It is in this view, learned Government Advocate submitted that the scope and ambit of the Rules have to be determined with reference to cardinal rules of interpretation as enunciated by the Supreme Court. S. 4 states that there cannot

be a mining operation in any area (not confined to land belonging to Government) except in accordance with the terms and conditions as provided under the Act and the Rules. Rules contemplate two modes of excavation of minor minerals-- (i) by means of lease granted to quarry minor minerals; and (ii) permission to quarry and remove a specified quantity. Sub-rule (2) of R. 3 states that the lease shall not be granted in respect of any land notified by Government as reserved for use by Government or for any other public or special purpose. Sub-rule (3) of R. 3 states that no quarrying lease shall be granted in respect of any specified minor mineral, except with the prior approval of the Controlling Officer. The Director of Mines and Geology in notification, dated 1st Aug., 1987 (Annexure-R1) has specified the minor minerals. R. 3 A as amended from time to time prohibits grant of lease for quarrying black, pink and grey granites to private persons. Rules intend to achieve the object embodied in Ss. 4, 16 and 19 of the Act.

33. Supreme Court in *State of Karnataka v. Prasad Granites* (Civil Appeal No. 3130 of 1985 - Dt: 8-7-1985) while upholding the validity of the Rule has stated thus :

"We are of the view that no lease or even renewal of lease could be granted by the State Government in favour of the respondent or any one else since such grant or renewal of lease for quarrying black granite in favour of private persons was prohibited by the introduction of R 3A in the Karnataka Minor Mineral Concession Rules, 1969 as amended by Karnataka Minor Mineral (Amendment) Rules, 1979."

34. Section 19 declares that acquisition of rights in or over minerals in contravention of the provisions of the Act and the Rules shall be void and ineffective. These rules are specific and definite in the operation of minor minerals and there is no ambiguity whatsoever to look into the headnote in each Chapter of these Rules and ascertain their intendment or the purpose. By looking to the headnote the operation of the Rules cannot be confined to the area belonging to Government alone and whittle down the extent of operation of these Rules.

35. Supreme Court in *Commissioner of Income Tax, Bombay Vs. Ahmedbhai Umarbhai and Co., Bombay*, has stated thus (at p. 141 of AIR):

"The facts that the marginal note to the whole section refers to "non-residents" and that the section itself finds a place in Chap. V headed "Liability in Special Cases" were relied upon as supporting the view that sub-sec. (1) as a whole applies only to nonresidents. As pointed out by the Privy Council in *Balraj Kanwar v. Jagatpal Singh* ILR (1904) All 393 : 31 Ind App 132 (PC) marginal notes in an Indian Statute, as in an Act of Parliament, cannot be referred to for the purpose construing the statute..... Nor can the title of a Chapter be legitimately used to restrict the plain terms of an enactment." The dictum in *Director of Public Prosecution v. Schildkamp* (1969) 3 All ER 1640 enunciated by Viscount Dilhorne,

which reads thus:

"While I would not suggest that, when one is considering an Act of Parliament, one is not entitled to look at the title given to a part of the Act and to cross-headings, the weight to be attached to them is, in my opinion, very slight and less than that which should be given to a preamble. In my view the title given to a Part of an Act and the cross-heading to a modern Act, which are inserted by the draftsman and not subject to amendment by the members of either House, are no more than guides to the contents of the part of sections which follow. They are not meant to control the operation of the enacting words and it would be wrong to permit them to do so." is also the same.

36. Having regard to the authoritative pronouncement of the Supreme Court which is binding on this Court under Art. 141 of the Constitution of India and in which there is no reference to any one of these principles let alone reference to Ss. 4 and 19 of the Act in cases cited by the petitioners, including cases decided by me, I am unable to persuade myself that pattadars in the erstwhile State of Mysore and in Kollegal Taluk have got absolute right to win minor minerals. Petitioners' right to excavate minor minerals can only be in accordance with the provisions of the Act and the Rules, otherwise, it will lead to anomalies and absurdities.

For the reasons stated above, these writ petitions are dismissed. Rule, wherever issued is discharged.

37. Petitions dismissed.