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**(2013) 08 MAD CK 0176**

**In the Madras High Court**

**Case No :** W.A. No. 1874 of 2011 and M.P. No. 1 of 2011

The State of Tamil Nadu

APPELLANT

Vs

Nilgiris Ruby Mica Mines

RESPONDENT

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**Date of Decision :** 16-08-2013

**Acts Referred:**

**Citation :** (2013) 8 MLJ 469

**Hon'ble Judges :** M.M. Sundresh, J; M. Jaichandren, J

**Bench :** Division Bench

**Advocate :** R. Ravichandran, Addl. Govt. Pleader, for the Appellant; S. Raghavan, for the Respondent

**Final Decision :** Allowed

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## Judgement

M.M. Sundresh, J.—This appeal has been preferred by the appellants challenging the order of the learned Single Judge in allowing the writ petition by setting aside the order passed by the respondent No. 2, dated 19.8.2005, with the consequential direction to pass appropriate order granting permission to the petitioner to transport the quarried Mica mineral and mica scrap. The learned Additional Govt. Pleader appearing on behalf of the appellants would submit that admittedly, lease granted in favour of the respondent got expired on 12.11.1985. The application for renewal was given by the respondent which was received by the appellants after the expiry of the said lease period. The first appellant has rejected the application in G.O. (D) No. 88, Industries (MMD2) Department, dated 20.4.1998. Therefore, Rule 24-A(1) of Minerals Concession Rules 1960 does not have any application to the case in hand. The respondent did not make application for renewal within the specified period, as required under Rule 24-A(1) of the said Rules.

2. The learned Addl. Govt. Pleader also submitted that forfeiture clause contained in the agreement can only be made applicable to mining done during currency of the lease and hence, the appeal will have to be allowed.

3. Per contra, learned counsel for the respondent would submit that as per clause contained in the agreement entered into between the parties, one month notice ought to have been given. Since the said exercise had not been carried out by the appellants, the learned Single Judge has rightly allowed the writ petition by setting aside the impugned order. Therefore, no interference by this Court is required.

4. The order impugned has been passed by the appellant No. 2 on the ground that lease period expired on 12.11.1985 and the request for renewal was received by his office after expiry of the lease period. There is absolutely no materials placed before us, by the respondent to deny the said factual assessment made in the order impugned, passed by the second appellant.

5. Furthermore, as rightly contended by the learned Addl. Govt. Pleader, the forfeiture clause mentioned in the agreement entered into between the parties, will have to be read in conjunction with Rule 24(A)(1) of the Mineral Concession Rules 1960. The forfeiture clause deals only with forfeiture, but it does not give any right to do mining. Right to do mining will have to be read under Rule 22(1) (a) of the Mineral Concession Rules, not independent under forfeiture clause which has got statutory backing. Therefore, we have to read the agreement in consonance with rules. Hence, we do not find any reason to accept the reasoning adopted by the learned Single Judge. When once we come to the conclusion that the respondent has no right to do mining, after expiry of lease period, Rule 24-A(1) does not help in any case. The natural consequence will be, the relief sought for by the respondent cannot be granted. In such view of the matter, we have to allow the writ appeal, by setting aside the order of the learned Single Judge, who has committed an error in placing reliance on the forfeiture clause mentioned in the agreement.

Accordingly, the writ appeal is allowed. The order of the learned Single Judge is set aside. Consequently, connected miscellaneous petition is closed. No costs.