

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 35420 OF 2024 (GM-MM S)

C/W

WRIT PETITION NO. 35424 OF 2024 (GM-MM-S)

IN W.P. No. 35420/2024

BETWEEN:

- MR H.K. LAKSHMAN GOWDA
S/O H.T. KRISHNA
AGED ABOUT 53 YEARS OLD
RESIDING AT MYSORE - MADIKERE ROAD
CHILKUNDA VILLAGE, HANAGODU HOBLI
HUNSURU TALUK
MYSORE - 571 105

...PETITIONER

(BY SRI RAKSHITH B.V.M., ADVOCATE FOR
SRI SURESH T.S., ADVOCATE)



AND:

- STATE OF KARNATAKA
DEPARTMENT OF MINES AND GEOLOGY
REPRESENTED BY ITS SENIOR GEOLOGIST
KHANIJA BHAVAN, KBL CENTURY PHASE- I
NEAR KSRTC LAYOUT
RAYANAKERE POST
YADAHALLI ROAD
MYSORE - 570 008

2. STATE OF KARNATAKA
KARNATAKA FOREST DEPARTMENT
REPRESENTED BY DEPUTY CONSERVATOR
OF FORESTS
OFFICE OF DEPUTY CONSERVATOR
OF FORESTS
HUNSUR
MYSURU DISTRICT - 571 105
3. THE STATE OF KARNATAKA
DEPARTMENT OF REVENUE
REPRESENTED BY ITS PRINCIPAL SECRETARY
GOVERNMENT OF KARNATAKA
3RD GATE, 5TH FLOOR, M.S. BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU - 560 001
4. THE DEPUTY COMMISSIONER
DEPARTMENT OF REVENUE
MYSORE DISTRICT
GIRIBHOVI PALYA
SIDDARTHANAGAR
MYSURU - 570 011
5. THE STATE OF KARNATAKA
DEPARTMENT OF COMMERCE AND INDUSTRIES
(MSME AND MINES)
REPRESENTED BY ITS SECRETARY
VIKASA SOUDHA
BANGALORE - 560 001
6. THE STATE OF KARNATAKA
REPRESENTED BY SECRETARY OF FINANCE
DEPARTMENT OF FINANCE
VIDHANA SOUDHA, BANGALORE- 560001

...RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 READ WITH ARTICLE 227 OF THE CONSTITUTION OF INDIA, 1950 PRAYING TO ISSUE APPROPRIATE WRIT ORDER OR DIRECTION MORE SPECIFICALLY A WRIT IN THE NATURE OF CERTIORARI QUASHING THE LETTERS DATED 19.02.2024 (ANNEXURE-B-1) AND 15.03.2024 (ANNEXURE-B-2) ISSUED BY THE RESPONDENT No-2 WHERE BY THE RESPONDENT No-2 WITHDREW THEIR NO OBJECTIONS CERTIFICATE (NOC) GRANTED TO THE PETITIONER TO UNDERTAKE AND CARRY ON HIS MINING ACTIVITIES ON THE SUBJECT LAND AND ETC.

IN W.P. NO. 35424/2024

BETWEEN:

1. MR H.K. LAKSHMAN GOWDA
S/O H.T. KRISHNA
AGED ABOUT 53 YEARS OLD
RESIDING AT MYSORE-MADIKERE ROAD
CHILKUNDA VILLAGE, HANAGODU HOBLI
HUNSURU TALUK MYSORE - 571 105

...PETITIONER

(BY SRI RAKSHITH B.V. M., ADVOCATE FOR
SRI SURESH T.S., ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF MINES AND GEOLOGY
REPRESENTED BY ITS SENIOR GEOLOGIST
KHANIJA BHAVAN, KBL CENTURY PHASE - I
NEAR KSRTC LAYOUT, RAYANAKERE POST
YADAHALLI ROAD, MYSORE - 570 008
2. STATE OF KARNATAKA
KARNATAKA FOREST DEPARTMENT
REPRESENTED BY DEPUTY CONSERVATOR
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5. THE STATE OF KARNATAKA
DEPARTMENT OF COMMERCE AND INDUSTRIES
(MSME AND MINES)
REPRESENTED BY ITS SECRETARY
VIKASA SOUDHA
BANGALORE - 560 001
6. THE STATE OF KARNATAKA
REPRESENTED BY SECRETARY OF FINANCE
DEPARTMENT OF FINANCE
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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 READ WITH ARTICLE 227 OF THE CONSTITUTION OF INDIA, 1950 PRAYING TO ISSUE APPROPRIATE WRIT, ORDER OR DIRECTION, MORE SPECIFICALLY A WRIT IN THE NATURE OF CERTIORARI, QUASHING THE LETTERS DATED 19.02.2024 (ANNEXURE B-1) AND 15.03.2024 (ANNEXURE B-2) ISSUED BY THE RESPONDENT NO.2 WHEREBY THE RESPONDENT NO.2 WITHDREW THEIR NO OBJECTION CERTIFICATE (NOC) GRANTED TO THE PETITIONER TO UNDERTAKE AND CARRY ON HIS MINING ACTIVITIES ON THE SUBJECT LAND AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, ORDER WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

INTRODUCTION

1. The petitioner has filed the present writ petition, W.P.No.35420/2024, impugning the order dated 30.11.2024 [hereinafter, '**the first impugned order**'] passed by respondent No.1 (Senior Geologist, Department of Mines and Geology, Mysuru) bearing No. DMG/SGM/SQL/A No-1/2024-25/1630, directing that the quarrying operations under Lease No. MYSNS549 (QL 549) in respect of 4 acres of land in Survey No.23 of Athiguppe Village, Hunsur Taluk, Mysore District be stopped.

2. The petitioner has filed W.P.No.35424 of 2024 impugning the order dated 05.12.2024 [**the second impugned order**], bearing No. DMG/SGM/SQL/A No-2/2024-25/1663, passed by respondent No.1 directing that quarrying operations under Lease No. MYSNS554 (QL 554) in respect of 3 acres 20 guntas of land in Survey No.23 of the same village be stopped. Both the impugned orders are hereinafter collectively referred to as 'the impugned orders'.

3. Both writ petitions arise from a common factual matrix. The petitioner holds two quarrying leases for quarrying ordinary building stone on land bearing Survey No.23, Athiguppe Village, Hunsur Taluk, Mysore District [hereinafter referred to as '**the subject lands**']. The core dispute pertains to whether the subject lands constitute forest land, and whether the impugned orders stopping the quarrying operations were validly passed, particularly in light of the earlier orders of this Court in W.P.No.15865/2024 (GM-MM-S) and W.P.No.15692/2024 (GM-MM-S), whereby the matter was remanded to Respondent No.1 for de novo consideration.

4. Before examining the reliefs sought by the petitioner and the challenge to the impugned orders, it is necessary to set out the factual context in which the controversy involved in the present writ petitions arises.

PREFATORY FACTS

5. At the outset, it is relevant to note the historical background pertaining to the subject lands. As per the Government Notification No. 1173-FT-F-145-95 dated 04.08.1900, an area of 180 acres in Survey No.07 (Old Survey Number) of Athiguppe Village, Hunsur Taluk was notified as Kallabetta Block-01 State Forest. It is

material to note that at the time of the original notification in 1900, the old Survey No.07 encompassed a larger area which was subsequently resurveyed in the year 1921 and subdivided into Survey Nos.22 and 23, among others.

6. By a Government Order bearing No. AF 9226-9-FT 189-48-2 dated 17.06.1949, the Government of Mysore released 470 acres of land from Kallabetta Block-I for agricultural and cultivation purposes, including for the formation of the Adhi-Karnataka Aprit Colony. Further, by Government Proceedings dated 13.04.1949, the release of 217 acres from the Forest Department to the Revenue Department for the said colony was sanctioned. It is the case of the petitioner that in consequence of these releases, the area falling in Survey No.23 of Athiguppe Village ceased to be part of the State Forest.

7. By Government Order No. RD 32 LAD 62 dated 01.08.1964, the C and D category land in Survey No.23 of Athiguppe Village was transferred from the Revenue Department to the Forest Department. Thereafter, by Government Order No. RD 54 LGP 78 dated 18.05.1978, the C and D category lands of Hunsur Taluk were further transferred from the Revenue Department to the

Forest Department for land bank purposes, with effect from 30.11.1978.

8. It is pertinent to note that by the Central Government Order No. 8-65/83-FRY(CONS) dated 13.09.1983, the Government of India, Ministry of Agriculture, directed the State Government to provide 211 acres (85.39 hectares) of land as compensatory plantation/afforestation in lieu of 46.70 hectares of forest land in the Gulledahalla Reserve Forest, Periyapattana Range, Mysore District, which was released for the construction of the Ingalagere Tank irrigation scheme. Pursuant thereto, the Government of Karnataka issued Proceeding Order No. FFD 7 FGL 81, Bangalore, dated 07.01.1984, directing that compensatory afforestation be raised on 211 acres (85.39 hectares) of C and D class land.

9. The record indicates that advance work for compensatory afforestation was undertaken in a 12-hectare area in the year 1987-88, and that in the year 1988-89, compensatory afforestation was carried out over a further 25-hectare area, along with the construction of a cattle proof trench. It is the case of the Forest Department that compensatory afforestation was planted over 12 hectares (29.02 acres) in Survey No. 23 and 25 hectares in Survey No. 81, both in Athiguppe Village.

10. The record indicates that afforestation exercise in Survey No.23, if any, had failed. The report of the District Task Force indicates that the afforestation was conducted in the year 1988-89 but had failed, and it was on that basis that the No Objection Certificate for quarrying was subsequently granted.

11. Subsequently, by Government Order No. RD 106 LGP 88 dated 03.01.1991 and 17.09.1991, all C and D category lands, which were not declared as forest land, were transferred from the Forest Department back to the Revenue Department. It is the case of the petitioner, supported by a reference to the order of this Court in W.P.No.29328/2018 and W.P.No.9511/2020, that the effect of the said Government Order was that C and D category lands, including those in Survey No.23 of Athiguppe Village, reverted to the custody of the Revenue Department.

12. On 02.07.2011, the petitioner submitted an application to the Department of Mines and Geology for the grant of a building stone quarry lease in respect of 4 acres of land in Survey No.23, Athiguppe Village, Hunsur Taluk, Mysore District. In accordance with Rule 8(5) of the Karnataka Minor Mineral Concession Rules, 1994 [hereinafter, '**KMMC Rules**'], No Objection Certificates were

sought from the Revenue Department and the Forest Department, by letters dated 08.07.2011 and 24.08.2011, respectively.

13. By a letter dated 25.07.2011 (No. MAG 24/11-12), the Tahsildar, Hunsur Taluk, issued a No Objection Certificate, recording *inter alia* that the 29.02 guntas area in Survey No.23, Athiguppe Village, was Government Kharab land; that 4 acres of land in Survey No.23 was free for the sanction of quarry lease; that the said area was not reserved for any public purpose, either by the Government or local organisations; and that the said area did not belong to the Forest Department and was not a reserved forest.

14. By a letter dated 04.09.2012 (No. A9-LND-CR-2/2012-13), respondent No.2, the Deputy Conservator of Forests, Hunsur Division, Hunsur [the DCF], conveyed its no objection certificate [NOC] to the Senior Geologist, Department of Mines and Geology. The said NOC recorded that the Assistant Conservator of Forests and Technical Assistant, Hunsur Division, had conducted a spot inspection by visiting the site on 24.08.2012, and that it was found that the land in Survey No.23, Athiguppe Village, was Government C and D category land and did not fall under the limits of the Forest Department. It was further recorded that the said area was situated at 11 km from the Veeranhosahalli Wildlife Forest area, 21 km from

the Arabbithittu Wildlife Range, 4 km from the Kallabetta Forest area, and 1.5 km from the Muthurayanahosalli Forest; and that since there was no wildlife sanctuary or national park within 10 km of the 4-acre land in Survey No.23, there was no objection from the Forest Division for granting permission for stone quarrying in the said area.

15. The matter was placed before the District Task Force (Mines) Committee, held under the chairmanship of the Deputy Commissioner, Mysore District, on 07.08.2012. The Committee accorded its approval for the sanction of the stone quarry lease.

16. Pursuant to the above, a notification was issued on 06.12.2012, as per Rules 11(5), 27 and 33(2) of the KMMC Rules, sanctioning QL 549 in favour of the petitioner for building stone quarrying in 4 acres of land in Survey No.23, Athiguppe Village, Hunsur Taluk, for a period of 5 years with effect from 29.01.2013. The Environmental Clearance was issued by the State Level Environmental Impact Assessment Authority (Karnataka) on 26.03.2015. The quarrying lease deed was registered before the Sub-Registrar, Hunsur on 09.06.2020.

17. It is relevant to note that a second application was also made by the petitioner for a quarry lease in 3 acres 20 guntas of land in the same Survey No.23, Athiguppe Village. Pursuant to the said application, QL 554 was sanctioned, in favour of the petitioner, for a period of 5 years with effect from 06.11.2015. An Environmental Clearance was issued by the State Level Environmental Impact Assessment Authority (Karnataka) on 09.09.2015. The lease deed was registered before the Sub-Registrar, Hunsur on 25.04.2023.

18. By letter dated 14.12.2017, Respondent No.1 (Department of Mines and Geology) intimated the petitioner that, in view of legal developments, the petitioner may, if interested, apply for extension of the tenure of his lease. Pursuant to the amended KMMC Rules, QL 549 was subsequently deemed to be extended for a period of 20 years from the date of sanction (that is, up to 28.01.2033). This was implemented on 18.05.2020. Similarly, on 26.04.2022, QL 554 was extended for 30 years from the date of sanction (that is, up to 05.11.2045).

19. Thereafter, the RTC entries pertaining to Survey No.23 of Athiguppe Village were changed. The record indicates that from 2010 to 2021, the RTC entries consistently recorded the subject lands as Government land with no crop information. However, by

an order dated 27.04.2022 (No. RRT(H) 01/2022-23), the Assistant Commissioner, Hunsur Sub-Division, directed that an entry be made in Column No.11 of the Pahani of Survey No.23 as 'pariharatmaka nadithopu aranya pradesha' or 'Compensatory Afforestation Forest Area'. This was pursuant to a chain of correspondence initiated by the Range Forest Officer, Hunsur Range, to the Tahsildar, Hunsur Taluk (letter dated 07.07.2021) and a subsequent report by the Tahsildar (letter dated 29.03.2022). The mutation was approved and effected on 09.05.2022, recording 29.02 acres in Survey No.23 as compensatory afforestation area.

20. The petitioner contends that this reclassification was effected without notice to him, in violation of Section 129 of the Karnataka Land Revenue Act, 1964, and without affording him any opportunity of being heard.

21. On 16.09.2023, officers of the Forest Department, the Revenue Department, and the Department of Mines and Geology jointly visited Athiguppe Village for the purpose of conducting a spot inspection in connection with an application submitted by third parties — namely, KNR Construction Ltd and Ramalingama Construction Corporation Ltd — for the establishment of a crusher unit. It appears that during the said visit, the officers also inspected

the petitioner's quarry operations in Survey Nos.22 and 23 of Athiguppe Village. The petitioner states that the officers of the Forest Department, including the DCF (Deputy Conservator of Forests), informed his staff that Survey Nos.22 and 23 fell within the Reserved Forest area as per the notification of 1900, and directed the stoppage of quarrying activities. It is stated that no formal notice was issued to the petitioner from the Forest Department at that stage.

22. Subsequently, the DCF, by letters bearing No. A9/Bhoomi/Stone Quarry/CR-3/2023-24 dated 03.10.2023 and 20.10.2023, addressed to the Senior Geologist, Department of Mines and Geology, stated that the lease area sanctioned in Survey No.23 of Athiguppe Village fell within the limits of Kallabetta State Forest Area Block-01, which was a State Forest area as per the Government Notification dated 04.08.1900; and requested the Department of Mines and Geology to cancel the stone quarry leases sanctioned to the petitioner and one Sri Krishnegowda in Survey Nos.22 and 23 of Athiguppe Village.

23. Respondent No.1 issued a show cause notice dated 16.11.2023, calling upon the petitioner to show cause as to why the stone quarry licences issued to him should not be cancelled in light

of the Forest Department's communication. The petitioner, by letters dated 27.11.2023, 08.12.2023, and 12.12.2023, sought time to submit his explanation and requested that the documents relied upon in the show cause notice be furnished to him to enable him to file a comprehensive reply. Thereafter, by a detailed reply dated 21.12.2023 (addressed to the Senior Geologist), the petitioner contended that the area in Survey Nos.22 and 23 of Athiguppe Village was C and D category land; that No Objection Certificates had been received from both the Revenue and Forest Departments at the time of the original sanction; and that it would be illegal to cancel the stone quarry leases sanctioned in the said survey numbers.

24. The matter was placed before the District Task Force Committee meeting held on 31.01.2024, chaired by the Deputy Commissioner, Mysore District. It is recorded that in the said meeting, it was decided that if the No Objection Certificates previously issued by the Forest Department in respect of the said stone quarry leases were withdrawn, the said quarry leases could be rejected.

25. Thereafter, the DCF, by a letter dated 19.02.2024, addressed to the Senior Geologist, Department of Mines and Geology, to

withdraw the No Objection Certificate that had been issued on 04.09.2012 for stone quarrying in Survey Nos.22 and 23 of Athiguppe Village. The said letter stated, *inter alia*, that:

(i) as per the Government Notification dated 04.08.1900, 180 acres in Survey No.07 (old) of Athiguppe Village was notified as Kallabetta Block-01 State Forest;

(ii) as per Government Order dated 01.08.1964, C and D area in Survey No.23 was transferred to the Forest Department;

(iii) the Central Government Order dated 13.09.1983 and the State Proceedings dated 07.01.1984 directed compensatory afforestation in C and D class land;

(iv) Survey Nos.22 and 23 are C and D category lands already transferred from the Revenue Department to the Forest Department, with the Action Plan Register of Hunsur Division recording that the Social Forestry Division had raised afforestation;

(v) the NOC for quarrying was being withdrawn as the quarrying was being conducted in the computerised (mutated) area; and

(vi) prior approval of the Central Government was required for any non-forest use, relying on the decision of the Supreme Court in *T.N. Godavarman Thirumulkpad v. Union of India and Others* [W.P.(C) No.202/1995 and W.P.(C) No.171/1996, decided on 12.12.1996].

26. By a subsequent letter dated 15.03.2024, the DCF confirmed the withdrawal of the NOC in substantially similar terms.

27. On 20.03.2024, Respondent No.1 issued stoppage notices, directing the petitioner to stop quarrying operations in both the lease areas — QL 549 (4 acres) and QL 554 (3 acres 20 guntas) — in Survey No.23, Athiguppe Village.

28. Aggrieved by the said stoppage notices, the petitioner filed writ petitions, W.P.No.15865 of 2024 (in respect of QL 549) and W.P.No.15692 of 2024 (in respect of QL 554) before this Court, challenging the stoppage notices dated 20.03.2024 and seeking, *inter alia*, the resumption of quarrying operations.

29. The aforementioned petition, W.P.No.15865/2024, was heard and disposed of by a co-ordinate bench of this court by an order dated 11.11.2024¹. The Court observed that two grounds were indicated in the stoppage notice: first, that as per the Government Notification dated 04.08.1900, 180 acres in Survey No.7 and C and D area in Survey No.23 in Athiguppe Village were handed over to the Forest Department as per the Government Order dated 01.08.1964; and second, that Survey Nos.22 and 23 are C and D category lands already transferred from the Revenue Department to the Forest Department, with the Revenue

¹ NC:2024:KHC:45531-DB

Department having computerised certain areas in the revenue records.

30. The Court further observed:

"5. There would be no gainsaying in that case of the petitioner that the quarry lease area would not fall under the demarcated forest is an issue to be investigated and searched on the basis of the facts and the factual inquiry. This Court would not venture into it."

31. The Court found that there was a clear breach of the principles of natural justice inasmuch as the petitioner had not been supplied the complete material relied upon by the authorities and had not been given an opportunity of being heard. The Court, accordingly, set aside the stoppage notice dated 20.03.2024 and remanded the matter to Respondent No.1 (the Senior Geologist, Department of Mines and Geology, Mysuru) to decide the case afresh, after supplying all the relevant documents to the petitioner and affording the petitioner an opportunity to be heard. The Court directed that the entire exercise be completed within two weeks from the date of receipt of the order.

32. The petition, W.P.No.15692 of 2024² (in respect of QL 554) was disposed of by the order dated 15.11.2024 by the same Division Bench, in materially similar terms.

33. It is relevant to note that in both the aforesaid orders, this Court expressly clarified that it had not gone into the merits of the case nor expressed any opinion on the merits of either side, and that the setting aside of the stoppage notice was only on the ground of breach of natural justice.

34. Subsequent to the order dated 11.11.2024 passed in W.P.No.15865 of 2024, the petitioner, by letters dated 14.11.2024, addressed to Respondent Nos.1, 2 and 3 (with copy to the Deputy Commissioner, Mysore District, i.e. Respondent No.4), furnished copies of the said order and sought that the matter be decided afresh in the presence and with the involvement of all the respondents — in particular, the Forest Department (Respondent No.2), the Revenue Department (Respondent No.3) and the Deputy Commissioner (Respondent No.4) — on the ground that they were essential and necessary parties to the effective and comprehensive resolution of the dispute. By a letter dated

² NC: 2024:KHC:48221-DB

15.11.2024, addressed to Respondent No.2, and a letter dated 15.11.2024 addressed to Respondent No.3, the petitioner reiterated his request for the involvement of the Forest and Revenue Departments.

35. Respondent No.1, by a letter dated 14.11.2024, called the petitioner for a personal hearing on 20.11.2024. Prior to the said hearing, the petitioner sent a letter dated 20.11.2024, once again making a representation to Respondent No.1 seeking the involvement of Respondents Nos. 2 to 4 in the hearing. This request was not acceded to.

36. On 20.11.2024, the personal hearing was conducted by the Senior Geologist, Department of Mines and Geology, Mysore, at 11:30 AM. It is material to note that the hearing was conducted solely by Respondent No.1; Respondent Nos.2, 3 and 4 were not present at or involved in the hearing. The minutes of the proceedings dated 20.11.2024 recorded the petitioner's contentions including the following:

"(i) that the Kallabetta Block-I State Forest area had been released for agricultural and cultivation purposes as per the Government Order dated 17.06.1949;

(ii) that the C and D category lands had been transferred back from the Forest Department to

the Revenue Department as per the Government Order No. RD 106 LGP 88 dated 03.01.1991 and 17.09.1991;

(iii) that the compensatory afforestation was to be raised in C and D class land in Muthurayanabetta, Hunsur Taluk, not in Survey No.23;

(iv) that the entry in the RTC recording Survey No.23 as compensatory afforestation area was erroneous and wrongly computerised;

(v) that the NOC issued by the DCF on 04.09.2012 was correctly issued; and

(vi) that the Report given by the State-level and District-level Committee in respect of the Joint Spot Inspection about Deemed Forest noted that the Forest Department had not issued any objection or notice to stop quarrying activities in the area granted under Survey No.23.

(vii) that the letters written by the Deputy Conservator of Forests, Hunsur Division, from 15.10.2019 onwards seeking mutation of 25 hectares in Sy.No.23 were fabricated."

37. On 30.11.2024, Respondent No.1 passed the first impugned order, stopping the quarrying operations under QL 549 in respect of 4 acres of land in Survey No.23, Athiguppe Village, Hunsur Taluk, Mysore District. The operative portion of the said order records that since the DCF had withdrawn the No Objection Certificate by letter dated 15.03.2024, and since, as per Rule 8(5)(iii) of the KMMC Rules (as amended), a No Objection Certificate from the Forest Department is a prerequisite for the grant of any stone quarry lease, the condition under Sub-Rule 5(iii) of Rule 8 of the KMMC

Rules was no longer satisfied, and the quarrying operations were accordingly ordered to be stopped.

38. In the meantime, parallel proceedings with respect to QL 554 (the subject matter of W.P.No.35424 of 2024) were conducted. Following the order dated 15.11.2024 passed by this Court in W.P.No.15692 of 2024, the petitioner, by letters dated 02.12.2024, addressed to Respondent Nos.1, 2 and 3 sought the involvement of all the respondents in the de novo consideration of the matter.

39. Respondent No.1 issued a letter dated 02.12.2024 calling the petitioner for a personal hearing on 05.12.2024.

40. On 05.12.2024, the hearing was afforded to the petitioner by respondent No.1; respondent Nos. 2, 3 and 4 were not present or involved. The minutes of the proceedings dated 05.12.2024 record the petitioner's contentions in materially identical terms as in the earlier hearing.

41. On the same day, that is on 05.12.2024, respondent No.1 passed the second impugned order stopping the quarrying operations under QL 554 in respect of 3 acres 20 guntas of land in Survey No.23, Athiguppe Village, Hunsur Taluk, Mysore District. The reasoning and the operative portion of this order are

substantially identical to the first impugned order — the stoppage is predicated upon the withdrawal of the Forest Department's NOC by letter dated 15.03.2024, and the consequent non-compliance with Rule 8(5)(iii) of the KMMC Rules.

42. Aggrieved by the first and second impugned orders, the petitioner filed the present writ petitions, W.P.No.35420 of 2024 and W.P.No.35424 of 2024, on 26.12.2024.

REASONS AND CONCLUSIONS

43. The dispute essentially centers around two questions. First, whether respondent No.1 has the power to direct the stopping of quarrying operations and second, whether the subject lands falling in Survey No. 23 are vested with the Forest Department.

44. The Karnataka Minor Mineral Concession Rules, 1994 [**KMMC Rules**] do not confer any specific power on respondent No.1 or any other authority to interdict quarrying operations, which are being conducted in accordance with the Rules.

45. Under the proviso to Sub-rule (3) of Rule 6 of the KMMC Rules, the Competent Authority is empowered to determine a lease or licence prematurely, in the event the lessee or licensee fails to pay the requisite fine for failing to remedy any breach of the

conditions specified in the KMMC Rules or in the quarrying lease deed or licence. The said Sub-rule is set out below:

"(3). In case of breach by the lessee or licensee or his transferee or assignees of any of the conditions specified in these rules or in the quarrying lease deed or licence, the Competent Authority shall require by notice in writing the lessee or licensee to remedy the breach within thirty days from the date of notice and if the breach is not remedied within such period the Competent Authority may levy a fine of rupees twenty-five thousand in the case of non-specified minor minerals and rupees fifty thousand in case of specified minor minerals.

Provided that, if lessee or licensee fails to pay the fine as mentioned above, the Competent Authority shall determine the lease or license after providing an opportunity of being heard."

46. The impugned orders was rendered on the ground that the Forest Department had withdrawn its NOC for the grant of the mining lease. However, the NOC from the Forest Department is required prior to the grant of the mining lease. There is no provision for the Forest Department to withdraw its NOC after the mining lease has been granted. This does not estop the State from interfering with the illegality underlying the Grant of lease itself if the subject land is found to be forest land.

47. In the present case, the mining leases in question (QL 549 & QL 554) were granted on 06.12.2012 with effect from 29.01.2013

and 06.11.2015 for a period of five years with effect from 06.11.2015 respectively. Thereafter, the mining leases were executed and registered with the Sub-Registrar. The term of the QL 549 was extended for a period of 20 years from the date of the grant, that is, up to 28.01.2033, and the QL 554 was extended for a period of 30 years from the date of the sanction, that is, till 05.11.2045.

48. In view of the above, the action interdicting quarrying lease operations after they had been in operation for more than a decade is extraordinary, to say the least. However, the order is premised on the basis that the Forest Department's NOC was granted erroneously, and mining activity was impermissible on the said land. Plainly, if it is found that the subject land granted is a forest land and the same could not have been diverted for carrying on quarrying activity, such activities would have to be interdicted.

49. It is apparent that the impugned orders have been passed on the ground that the Forest Department had wrongfully issued the NOC and that the grant of mining lease in the given facts was wrongful. Concededly, the mining lease for the forest land could not have been granted. Such a lease cannot be considered as permissible under Sub-rule (2) of Rule 3 of the KMMC Rules, which

prohibits the grant of any quarry lease or licence, otherwise than in accordance with the said Rules.

50. As noted above, concededly, no quarrying operations are permitted in a forest without the permission of the Central Government under the Forest (Conservation) Act, 1980 [**FC Act**]. Thus, no forest land could be diverted for quarrying purposes. If the respondents are correct in their submission that the subject land vested with the Forest Department, it was not permissible to divert it for mining purposes without the requisite permissions and approvals from the Central Government. In the present case, neither any such permission was sought nor any such permission was granted.

51. The respondents' case is that respondent No.2 (Deputy Conservator of Forests) had given the NOC on the basis of the land records with the revenue authorities. However, in the course of digitising the said records, it was revealed that the subject lands were vested with the Forest Department. The respondents claimed that there was a mismatch in the manual RTC records and the records available with the Forest Department.

52. In the given facts, we are unable to accept that the mining leases can be permitted to subsist notwithstanding that they were in respect of forest lands, which had been diverted without the requisite permissions under the FC Act. The very grant of such a lease would be without necessary authority, and thus, the petitioner would not be entitled to claim any right to carry on mining activity in respect of such a lease. It is contended on behalf of the petitioner that the respondents are now estopped from questioning the lease, having once granted it to him in accordance with the procedure prescribed under the KMMC Rules. However, we are unable to accept the said contention. If the leases in question were granted on an erroneous premise that the lands in question were revenue lands, the grant of the mining lease was without the necessary approvals. Thus, it would not be open for the petitioner to claim mining rights on the basis of the said mining leases.

53. The principal question to be considered is whether, in fact, the subject lands vested with the Forest Department. The respondents had referred to the notification dated 04.08.1900, whereby an area of 180 acres falling in old Survey No.07 of Athiguppe Village was identified as Kallabetta Block-01 State Forest, the old Survey No. 07 was subsequently subdivided,

including Survey Nos. 22 and 23. It is undisputed that historically the subject lands were part of the land comprising the Kallabetta Forest.

54. The petitioner submits that by the Government notification dated 17.06.1949, 470 acres (190.202 hectares in Kallabetta Block-01) was released for the purpose of cultivation and the same is also mentioned in the 'Working Plan of Hunsur Forest Division 2011-2012 to 2020-2021'. The respondents claim that, although they had mentioned the notification dated 04.08.1900 only to provide a historical and administrative background, they do not rely exclusively on that notification to assert that the subject lands are forest lands. It is explicitly averred in the statement of objections that it is their case that the subject lands are covered under the provision of the FC Act on account of their transfer and control by the Forest Department and their utilisation or retention for afforestation purposes. They claim that although 470 acres of land were released from Kallabetta Forest Block-01 for cultivation, this did not automatically extinguish the land's character as a forest. The available working plan indicates the extent of land released for specific purposes.

55. In our view, the historical background of the subject land is relevant and cannot be disregarded. There is no dispute that 470 acres of land of Kallabetta Forest Block-01 were released for cultivation by the Government Order dated 17.06.1949. However, it is also not disputed that the said lands were not brought under cultivation. Even according to the petitioner, the said lands remained barren lands. The respondents state that the working plan of the Hunsur Forest Division for 2011-2012 and 2020-2021, specified the extent of land, which was released for specific purposes. However, as stated above, the State Authorities do not assert that the subject land is a part of the forest lands on the strength of the notification dated 04.08.1900.

56. Admittedly, the lands falling in Survey No.23, were classified as C and D category lands Revenue Lands and were transferred to the Forest Department on 30.11.1978 as per the Government Order dated 08.05.1978. It is important to note that a copy of the relevant record has been produced, indicating that 40 acres falling in Survey No. 22; 29 acres and 2 guntas falling in Survey No.23; and 100 acres falling in Survey No.81, were transferred to the Forest Department.

57. The petitioner, however, claims that the said lands, which came to be vested with the forest department, did not form a part of the reserve forest and therefore, were re-transferred to the Revenue authorities in terms of the circular dated 17.09.1991.

58. The said circular has not been produced in these proceedings. However, the learned counsel for the petitioner referred to the decision of a Co-ordinate Bench of this Court in **K. Manjunath v. State of Karnataka and others**³ and drew the attention of this Court to paragraph 12 of the said decision, which reads as under:

"12. As per Notification dated 4th March, 1982 an extent of 18 lakh acres of 'C' and 'D' class lands were transferred to forest department for afforestation/social forestry purpose. The forest department developed portion of land and notified an extent of 1,67,500 acres (67,000 hectares) only. Subsequently, the State Government vide order dated 3rd January, 1991 ordered for retransfer of 'C' and 'D' class lands from forest department to revenue department with exception of lands already notified as reserved forest area by the forest department. The State Government issued a circular dated 17th September, 1991 clarifying the status of 'C' and 'D' class lands as on 3rd January, 1991 stands resumed/vested in the Revenue Department. The petitioner has produced the copy of Record of Rights for the year 2018-19, which discloses that Sy. No. 185 is a gomal land. The respondents have not disputed the Notification dated 3rd January, 1991 and Circular dated 17th September, 1991."

³ (2020) SCC Online KAR 2775

59. Mr. Rakshith B.V.M, the learned counsel for the petitioner contends that the subject lands were not notified as a reserved forest and therefore, notwithstanding that they had been earlier transferred to the Forest Department, they were resumed by the Revenue Department.

60. The respondents' case is that the lands in question were brought under the administrative control of the forest department. They were so recorded in the records maintained by the Forest Department and utilised and retained for afforestation-related activities. Thus, the said lands could not be diverted. Plainly, the circular mentioned in *K. Manjunath v. State of Karnataka and others* (*supra*) will not be applicable if the lands in question have been utilized for afforestation.

61. At this stage, it would be relevant to refer to the decision of the Supreme Court in **T.N.Godavarman Thirumulpad v. Union of India and others**⁴ whereby, the Court accepted the expansive definition of Forest. We consider it relevant to refer to the following observations from the said decision.

⁴ (1997) 2 SCC 267

"4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land" occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this Court in *Ambica Quarry works vs State of Gujarat*, *Rural Litigation and Entitlement Kendra vs State of U.P.* and recently in the order dated:29.11.1996 (*Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority*). The earlier decision of this Court in *State of Bihar v. Banshi Ram Modi* has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.

5. We further direct as under:

I.General

In view of the meaning of the word “forest” in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any “forest”. In accordance with Section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith.....”

[emphasis added]

62. In view of the aforesaid authoritative decision, it is not necessary that the lands be notified as a part of the reserve forest for the same to fall within the ambit of the FC Act. If the respondents are correct in their submission that the subject lands have been retained for afforestation purposes, the said lands could not be considered as resumed by the Revenue authorities. In this regard, there is material on record to indicate that the land was used for forestry purposes.

63. Whilst the petitioner claims that the subject land was used for social forestry in 1988, the respondents claim that it was used for afforestation as a compensatory measure for the release of certain lands for irrigation purposes.

64. The petitioner argues that the lands falling within Survey No. 23 cannot be considered forest land, as the afforestation had failed. We find this contention difficult to accept. Even if the afforestation

efforts had failed at one stage, it would not change the nature of the lands. It is also erroneous to assume that once an afforestation effort fails, it cannot be undertaken again. The petitioner referred to an extract of the document which clearly indicates that afforestation activity was undertaken in the year 1988 but, it had failed. The annual working plan for 1988 -1989 indicates that advance work for compensatory afforestation on 12 hectares at Athiguppe was carried out. Whilst the petitioner disputes that this area comprised Sy No. 23, the respondents claim otherwise.

65. The narration of facts as set out above also indicates that there is no dispute that contemporaneously, the compensatory afforestation activities were carried out pursuant to the release of 46.70 hectares of forest land for the construction of the Ingalagere Tank by the Public Works Department [**PWD**] near Bylakuppa.

66. The letter dated 13.09.1983 issued by the Government of India has been placed on record. The said letter indicates that the Government had examined the proposal for the release of 46.70 hectares of forest land and granted the clearance under Section 2 of the FC Act for use of the said land for non-forest purposes, subject to certain conditions. The same included a condition that the Revenue Department would hand over 211 acres of land to the

State Forest Department for compensatory plantation/afforestation at the cost of the PWD. The said condition was accepted, and the State Government issued the Government Order dated 07.01.1984, directing that the Revenue Department release 211 acres (85.39 hectares) of C & D lands to the Forest Department for raising compensatory plantation. Subsequent communication dated 18.11.1987, addressed by the Deputy Conservator of Forests to the Conservator of Forests, Kodagu Circle, Madikeri, indicates that the C & D lands in *Muthurayana Betta* in Hunsur Taluk were selected for compensatory afforestation. The letter mentions that the land, to the extent of 25 hectares, would be planted in the next year, 1988.

67. There is a dispute over whether the afforestation activity was confined to Muthurayana Betta (Survey No. 81) or also carried out in Survey No. 23 of Athiguppe Village.

68. The respondents referred to the letter dated 30.06.1988, which records that advance work of compensatory afforestation was undertaken in a 12-hectare area in Athiguppe Village in the year 1987-1988. The work includes planting saplings over 12 hectares and constructing a 3.7 km cattle proof trench for the rainy season. The respondents insist that the 12 hectares of plantation

work refers to the plantation carried out in Survey No. 23 of Athiguppe Village, and, as stated above, the petitioner disputes the same. They claim that the afforestation activity was carried out in Survey No.81 and not in Survey No.23.

69. There is extensive material on record indicating that compensatory afforestation had been carried out in Survey No. 81. However, the principal dispute is whether the lands falling in Survey Nos. 22 and 23 were excluded. The respondents state that the letter dated 18.11.1987, which referred to compensatory afforestation in Muthurayana Betta, pertained to one phase and cannot be considered as exhaustive of the afforestation-related activities that were undertaken at the material time. They state that their working plans, plantation records and files reflect that advanced afforestation work carried out in an area of 12 hectares at Athiguppe Village, which includes the lands falling in Survey No.23.

70. As noted above, the fact that afforestation activities were undertaken on the subject lands (survey no. 23) in the year 1988 is not disputed. According to the petitioner, however, the same had failed.

71. We may also note that communications dated 27.08.1999, 31.08.1999 and 15.02.2017 reflect that afforestation activities were carried out in Survey No. 23 to the extent of 25 hectares. The same is also the subject matter of dispute as the extent of land comprising in Survey No.23 is only 29.02 acres (approximately 12 hectares). Thus, the petitioner states that the said communications must be disregarded and the reference to afforestation activities falling in Survey No.23 is erroneous. However, merely because the extent of land mentioned is erroneous, the communications cannot be disregarded in entirety.

72. As noted herein before, the fact that certain lands, including lands falling in Survey Nos. 22 and 23, had been handed over to the Forest Department in the year 1978 is of significance. The petitioner's case predominantly rests on the submission that there is no document or record which indicates that the lands falling in Survey Nos. 22 and 23 were released by the Revenue Department to the Forest Department as a part of 211 acres of land which were required for compensatory afforestation in lieu of the release of 46.70 hectares of land for the Ingalagere Tank project. However, considering that the C&D lands were already with the Forest Department during the material period, the lack of any order

specifically mentioning that the lands in Survey No. 23 were being released for compensatory afforestation in lieu of the 46.70 hectares released for the Ingalagere Tank project, would not be dispositive of the present petition. The records produced do support the contention that some afforestation activity had been carried out and at the material time the subject lands falling in Survey Nos.22 and 23 were vested with the Forest Department.

73. We are unable to accept that the subject lands are not part of the lands vested with the Forest Department for compensatory afforestation.

74. During the pendency of the present writ petitions, pursuant to directions issued by the learned Advocate General by letter dated 17.02.2023, an Enquiry Committee was constituted under the chairmanship of the Deputy Commissioner, Mysore District, comprising the Deputy Conservator of Forests, Hunsur Division (Member), the Assistant Commissioner, Hunsur Sub-Division (Member), and the Senior Geologist, Department of Mines and Geology, Mysore (Member Secretary), for the purpose of conducting a fresh enquiry and submitting a report to this Court.

75. The Enquiry Committee met on 03.03.2025. The petitioner was present and was heard. The Senior Geologist presented the factual background, and the petitioner made his submissions, contending that the area in Survey No.23 was not forest land; that the compensatory afforestation was raised in a different area (Muthurayanabetta); that the area had been released for cultivation in 1949; and that the C and D class lands had been retransferred to the Revenue Department in 1991. The DCF asked the petitioner to produce supporting documents. The Resolution of the meeting recorded that the Committee would take a decision after the Deputy Conservator of Forests submitted a report examining the statements and documents furnished by the petitioner.

76. The Deputy Conservator of Forests submitted a report dated 17.03.2025 to the Deputy Commissioner. In the said report, the DCF traced the history of the compensatory afforestation chronologically, recording that:

“(i) the Central Government had ordered compensatory afforestation;

(ii) the State Government had directed its implementation;

(iii) advance work was undertaken in 12 hectares in 1987-88 and 25 hectares in 1988-89;

(iv) compensatory afforestation was grown in 12 hectares (29.02 acres) in Survey No.23 and 25 hectares in Survey No.81;

(v) the handwritten RTCs from 2011 to 2022 recorded the land as Government in Column 9 and as forest planted sapling in Column 12;

(vi) the then DCF had issued the NOC in 2012 only on the basis of revenue records, without examining the Forest Department records; and

(vii) the RTC was subsequently mutated in 2022 to record the compensatory afforestation.”

77. The Enquiry Committee met again on 19.03.2025. The DCF presented the summary of the report. The Resolution of the meeting recorded that, as per the report of the DCF, Survey No.23 in Athiguppe Village is C and D class area; that as per the Government Order No. RD 54 LGP 78 dated 08.05.1978, it was transferred to the Forest Department for land bank purposes; and that as per the Government of Karnataka Proceeding Order No. FFD 7 FGL 81 dated 07.01.1984, compensatory afforestation had been grown, and the said area therefore belonged to the Forest Department.

78. The Senior Geologist, by a letter dated 20.03.2025, forwarded the report along with the proceedings to the Advocate General for submission to this Court. The same was subsequently placed before this Court.

79. At the hearing held on 12.01.2026, this Court noted the learned counsel appearing for the petitioner had referred to various documents, which indicated that the afforestation exercise was conducted in Survey Nos.39, 106 and 821 of Athiguppe Village, and had produced GPS maps from the records of the respondents showing the same. It was further noted that, with respect to Survey No. 23, the report of the District Task Force indicated that the afforestation was conducted in 1988-89 but failed, and that, on that basis, the NOC for quarrying was granted. This Court observed that since the case of the Forest Department rested on the claim that lands falling in Survey Nos.22 and 23 had been diverted for forest purposes, the respondents were required to produce documents to evidence the same.

80. The respondents did not produce any further relevant documents to establish that the lands falling in Survey No. 23 were diverted and used for afforestation.

81. In the given facts, it is apparent that the GPS coordinates of the land, as available on record, on which afforestation was carried out, do not fall in Survey No. 23. However, there is sufficient material on record to indicate that afforestation activity was carried out on the subject land, or at least a part of it. As noted above, it is

also the petitioner's contention that afforestation activity was carried out in 1987-88 but failed. We agree with the Forest Department's contention that afforestation may be carried out in stages, and that failure of afforestation in a particular year does not release the forest land.

82. Before concluding, we must appreciate the assistance rendered by Sri Rakshith B.V.M, the learned counsel for the Petitioner. However, we are not persuaded to accept his contentions.

83. In view of the above, we are unable to accept that any interference with the impugned orders is warranted in these proceedings.

84. The petitions are accordingly dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE