M/S.Lakshminarayanan Mining Company vs The Chairman on 25 November, 2021

Author: S.M.Subramaniam

Bench: S.M.Subramaniam

WPs29218 to
29177, 29365,
and 29916 o

IN THE HIGH COURT OF JUDICATURE AT MADRAS

COMMON ORDER RESERVED ON 19-11-2021

COMMON ORDER PRONOUNCED ON 25-11-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.29218 to 29222, 29177, 29365, 29366, and 29916 of 2010
And
M.P.Nos.1 to 1 of 2011, 1 of 2012, 1 of 2013, 1 of 2014 and 1 of
And
WMP Nos.26210, 29805, 36913 of 2016, 2184, 5109, 6063, 25349 to
25352 of 2018 and 5842, 5847 and 6238 of 2019

WP No.29218 of 2010

M/s.Lakshminarayanan Mining Company,
Old No.33, New No.100,
Sannidhi Road,
Basavanagudi,
Bangalore – 560 004. .. Petitioner

vs.

1.The Chairman,
Chennai Port Trust,
No.1, Rajaji Road,
Chennai – 600 001.

2.The Chief Mechanical Engineer,
Chennai Port Trust,

1/81

https://www.mhc.tn.gov.in/judis

No.1, Rajaji Salai,
Chennai – 600 001. .. Respondents

WP 29218 of 2010 is filed under Article 226 of the Con of India, praying for the issuance of a Writ of Certiorarified Mand calling for the records of the first respondent in issuing the comm dated 30.09.2010 in Ref.No.MEE/V1/2130/2009/Dy.CME(OH) and quash the same and consequently direct the respondents to invoke/apply th Majeure Clause and not to invoke the Security Deposit and Bank Guar furnished by the petitioner in furtherance of Allotment Order No.9/ dated 31.01.2010.

For Petitioner in WPs 29218
to 29222 and 29926/10 : Mr.S.R.Rajagopal for
Mr.S.R.Raghunathan

For Petitioner in WPs 29177,
29365 and 29366/2010 : Mr.Prahalad Bhat for
Mr.Rahul Balaji.

For Respondents 1 and 2 in
all WPs : Mr.R.Sankara Narayanan,
Additional Solicitor Gen
India assisted by Mr.M.R
Chander.

For respondent-3 in
WP 29366/2010 : Mr.M.L.Ganesh

COMMON ORDER

The communication dated 30.09.2010 and 07.10.2010 declining the request of the petitioners to reconsider the proportionate drop in MGT under 'Force Majeure Condition', is under challenge in all these writ petitions.

2. In view of the fact that the issues raised are common in all these writ petitions, the petitioners are heard together and a common order is passed. WP No.29218 of 2010 is taken as a lead case.

3. The petitioner is engaged in the business of Mining of Iron Ore in the State of Karnataka and exporting the same. Export of Iron Ore had been made to several countries outside India through the Port at Chennai.

The petitioner had sought the allotment of Iron Ore Staking Transit Area from Chennai Port Trust. Chennai Port Trust is a Body created under the https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Major Port Trust Act, 1963.

4. Based on the application submitted by the petitioner, the Chennai Port Trust had issued allotment letter dated 31.01.2010, sanctioning 30,000 Metric Tonnes Iron Ore Staking Transit Open Area. The petitioner had deposited a sum of Rs.16,65,000/- as security deposit towards 50% of charges of the total Open Area Capacity of 30,000 Metric Tonnes and furnished a Bank Guarantee of Rs.3,66,30,000/- to cover the allotment period upto 31.12.2010. The Bank Guarantee was extended upto 31.03.2011. The allotment was made for a period of 11 months ended on 31.12.2010. The petitioner was obligated to export minimum guaranteed throughput of not less than 3,30,000 Metric Tonnes for the entire Iron Ore Staking Transit Area of 30,000 Metric Tonnes capacity during the allotment period ending 31.12.2010. The second respondent had levied a license fee of Rs.92/- per Metric tonne as per the scale of rates towards handling of iron ore, pollution and cleaning charges. If there is any shortfall in the minimum guaranteed throughput at the end of the allotment period, the petitioner is https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 required to compensate the second respondent by paying the licence fee of Rs.92/- per Metric Tonne as well as a sum of Rs.23/- per Metric Tonne towards marine charges. In the event of default, the first respondent-Chennai Port Trust had stipulated that the Bank Guarantee would be encahsed.

5. The petitioner till 31.08.2010 had exported 2,23,000 Metric Tonnes. That is more than the prorata minimum guaranteed throughput as on 31.08.2010. The Government of Karnataka, who issued the Mining Licence issued two orders dated 26.07.2010 and 28.07.2010 banning the export of Iron Ore extracted from the mines in Karnataka State for a period of six months and issuance of mineral dispatch permit for transporting for the purpose of export until further orders. Consequently the entire business activities of the petitioner came to halt.

6. The petitioner approached the High Court of Karnataka and made a contention that the illegal embargo by the Government Orders issued by the Government of Karnataka was an unforeseen circumstances and thus https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 'Force Majeure Condition' in Clause 14 of the allotment order must be applied. However, the petitioner could not able to succeed and all the writ petitions filed by number of

mining owners were dismissed with certain directions to the Government of Karnataka. Thus, the petitioner could not able to continue the export. Under these circumstances, the Chennai Port Trust proposed to encash the Bank Guarantee furnished by the petitioner and thus the petitioners are constrained to move these writ petitions.

7. The learned counsel appearing on behalf of the petitioners strenuously contended that the 'Force Majeure Condition' stipulated in Clause 14 of the allotment order squarely applies with reference to the facts and circumstances of these writ petitions.

8. The first respondent miserably failed to consider that the petitioners had exported substantial quantity over and above the minimum guaranteed throughput for the relevant period. They are not in a position to apply with the minimum guarantee throughput due to the impossibility of https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 performance of contract created by the Government of Karnataka by passing two orders imposing ban, which was beyond the control of the petitioners.

9. The petitioners state that the allotment order dated 31.01.2010 is not arising out of a commercial bank account but based on the statutory powers vested in the first respondent under Major Port Trust Act, 1963. The first respondent state that it is the 'State' within the meaning of Article 12 of the Constitution of India. Therefore, all the writ petitions are maintainable.

10. The change in the policy of the Government of Karnataka resulted in impossibility of performance and therefore, the first respondent cannot encash the Bank Guarantee and the request elaborately made by the petitioners were not considered by the first respondent and thus, the impugned orders are passed.

11. The learned counsel for the petitioners relied on the Award passed by the Arbitral Tribunal dated 03.09.2016. The Tribunal has https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 considered the issue 'Whether it is proved by the claimant that due to the ban transportation of Iron Ores vide order dated 25.11.2009 passed by the Government of Karnataka and the order of the Supreme Court, the very purpose of purchasing two rakes is frustrated and hence the claimant is justified in seeking termination of the Agreement dated 08.06.2007 and 20.07.2007'.

12. With reference to the abovesaid issue, elaborate findings were given and the Arbitral Tribunal made a finding that on account of the ban, the claimant could not transport the iron ore and though the Agreement provided for change with the consent of parties and the WIS is silent as to the commodity/goods to be transported, the respondent could not have refused the permission sought for change. Under these circumstances, the claimant would be entitled to the price in respect of two rakes purchased and handed over to the Railway. The arbitration emerged from and out of the fact that the Mining Operators reserved Railway Wagons for transporting iron ore. The Arbitrators found that the business was unable to be carried on https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 due to the ban imposed by the Government of Karnataka for which the Mining Operators cannot be faulted.

13. Learned counsel for the petitioners relied on the observations made by the Hon'ble Division Bench of the High Court of Karnataka, which was filed challenging the Arbitral Award. The Division Bench also made an observation that 'in the instant case, in view of the refusal to grant permission by the appellant to the respondent to transport the coal instead of iron ore, performance of the contract was made impossible on account of illegality committed by the appellant therein. Therefore, the 'Doctrine of Frustration' applies to the facts of these cases. Applying the principles of 'doctrine of frustration', the Karnataka High Court affirmed the Arbitral Award and the SLP filed by the SouthWestern Railway was also dismissed by the Apex Court of India. Thus, the said principle of 'Doctrine of Frustration' is to be applied in these cases as the issues are relatively similar.

14. Learned counsel for the petitioners referred the allotment https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 order for the allotment of Iron Ore Staking Transport Area Licence issued by the Chennai Port Trust on 01.03.2010. As per the allotment order, license for a period of 10 months was granted from 01.02.2010 to 31.12.2010.

Clause 2 states that the Licensee shall produce a copy of the valid Mining Lease Agreement, EOUs/Export License issued by the Government of India for the export of iron ore and the copy of the Export Application. Clause 3 contemplates that the Licensee shall export a minimum guaranteed throughput of not less than 3,30,000 Metric Tonnes during the abovemtnioned allotment period. Clause 11 states that if there is any shortfall in the minimum guaranteed throughput at the end of the allotment period, Licensee shall compensate the Trust by paying the license fee i.e., handling iron ore charges at the rate of Rs.85/-, cleaning charges of Rs.2/-, Pollution Levy of Rs.5/- and Marine charges of Rs.19/- per Metric Tonne as per the Trust's Scale of Rates as amended from time to time for the shortfall quantity along with Service Tax and other taxes and duties as per the prevailing rate. If the Licensee fails to pay the shortfall charges, the Bank Guarantee to the extent of the shortfall in the throughput quantity will be https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 encashed. Clause 14 contemplates that if the targeted throughput of the Licensee happens to be affected for more than 15 days continuously by means of natural calamities or stoppage of work on account of strike by Trust's employees or major shut down of plant or other reason which deemed fit, the proportionate drop in the throughput during the period wll be taken into account and shall be considered under 'Force Majeure Conditions'.

15. Relying on the above Clause 14, the learned counsel for the petitioners reiterated that the case of the petitioners is falling under the 'other reasons' which deemed fit. The proportionate throughput in the contract will be taken into account and shall be considered as 'Force Majeure Conditions'.

The ban order issued by the Government of Karnataka falls under the 'other reason', which was an unforeseen situation. Therefore, it would fall under ' Force Majeure Clause'.

16. The proceedings of the Government of Karnataka also states that exporting of iron ore from the State under any circumstances is banned https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 with immediate effect and until further orders. The ban orders challenged by the Mining Operators were dismissed by the High Court of Karnataka, which is reported in ILR 2011 KAR 1333 [V.S.Lad and Sons vs. The Secretary, State of Karnataka], while

dismissing the writ petition, the Hon'ble Division Bench of the High Court of Karnataka made an 'observation that while maintaining law and order, the rights of the innocent parties should not be infringed as far as it is practically possible'. The observation proceeds by stating that by blanket order without first distinguishing the wrong doers from those who are innocent, the Executive Government cannot adversely effect the civil rights of all those who are engaged in the export of iron-ore for an unlimited period of time. The judgment of the Division Bench of the High Court of Karnataka was confirmed by the Apex Court of India.

17. The learned counsel for the petitioners urged this Court by contending that the power of judicial review under Article 226 of the Constitution of India is wider enough to interfere in such circumstances wherein the petitioners could able to establish the impossibility of https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 performance resulted in violation of the condition stipulated in the allotment order and therefore, the 'Force Majeure Condition' as stipulated in the allotment order is to be invoked and for such an adjudication, the petitioners need not be driven to Civil Court of Law. When there is no dispute in respect of the facts and circumstances with reference to the terms and conditions in the allotment order, then the power of judicial review under Article 226 of the Constitution of India is exercisable and thus the writ petition is to be considered.

18. In the case of Municipal Council, Neemuch vs. Mahadeo Real Estate and Others [2019 (10) SCC 738], wherein the Hon'ble Supreme Court of India made a finding in paragraphs 13 and 14 as follows:-

> "13. In the present case, the learned Judges of the Division Bench have arrived at a finding that such a sanction was, in fact, granted. We will examine the correctness of the said finding of fact at a subsequent stage. However, before doing that, we propose to examine the scope of the powers of the High Court of judicial review of an https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 administrative action. Though, there are a catena of judgments of this Court on the said issue, the law laid down by this Court in Tata Cellular v. Union of India [Tata Cellular v. Union of India, (1994) 6 SCC 651] lays down the basic principles which still hold the field. Para 77 of the said judgment reads thus:
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> (SCC pp. 677-78) “77. The duty of the court is to confine itself to the question of legality. Its concern should be:
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> 1. Whether a decision-making authority exceeded its powers?
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> 2. Committed an error of law,
>
> 3. committed a breach of the rules of natural justice,
>
> 4. reached a decision which no reasonable tribunal would have reached or,

5. abused its powers.

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(i) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(ii) Irrationality, namely, Wednesbury unreasonableness.

(iii) Procedural impropriety.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in R. v. Secy. of State for Home Department, ex p Brind [R. v. Secy. of State for Home Department, ex p Brind, (1991) 1 AC 696 : (1991) 2 WLR 588 (HL)] , Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases, the test to be adopted is that the court should, 'consider whether something has gone wrong of a nature and degree which requires its intervention'.

https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010

14. It could thus be seen that the scope of judicial review of an administrative action is very limited. Unless the Court comes to a conclusion that the decision-maker has not understood the law correctly that regulates his decision-making power or when it is found that the decision of the decision-maker is vitiated by irrationality and that too on the principle of "Wednesbury unreasonableness" or unless it is found that there has been a procedural impropriety in the decision-making process, it would not be permissible for the High Court to interfere in the decision-making process. It is also equally well settled that it is not permissible for the Court to examine the validity of the decision but this Court can examine only the correctness of the decision-making process."

19. The petitioners relied on the judgment in the case of Durga Enterprises (P) Ltd. vs. Principal Secretary, Government of Uttar Pradesh [(2004) 13 SCC 665], wherein the Hon'ble Supreme Court https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 held that "the High Court had entertained the writ petition in which pleadings were also complete ought to have decided the case on merits, instead of relegating the parties to a civil suit".

20. Relying on those judgments, the learned counsel for the petitioners reiterated that in the present case, Section 56 of the Contract Act would squarely apply as the impossibility of performance due to the ban order issued by the Government of Karnataka was confirmed by the High Court of

Karnataka. Thus, Section 56 of the Indian Contract Act, will attract with reference to the facts and circumstances of the present case.

21. The petitioners relied on the judgment in the case of Satyabrata Ghose vs. Mugneeram Bangur and Company and Others [AIR 1954 SC 44], wherein in paragraphs 8, 9, 10, 11 and 12, the Supreme Court held as under:-

> "8. Section 56 occurs in Chapter IV of the Indian Contract Act which relates to performance of contracts and it purports to deal with one class of https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 circumstances under which performance of a contract is excused or dispensed with on the ground of the contract being void. The section stands as follows:
>
> "An agreement to do an act impossible in itself is void.
>
> A contract to do an act which after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful.
>
> Where one person has promised to do something which he knew, or, with reasonable diligence, might have known, and which the promisee did not know to be impossible or unlawful, such promisor must make compensation to such promisee for any loss which such promisee sustains through the non- performance of the promise."
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> 9. The first paragraph of the section lays down the law in the same way as in England. It speaks of something which is impossible inherently or by its very nature, and no one can obviously be directed to perform such an act. The second paragraph https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 enunciates the law relating to discharge of contract by reason of supervening impossibility or illegality of the act agreed to be done. The wording of this paragraph is quite general, and though the illustrations attached to it are not at all happy, they cannot derogate from the general words used in the enactment. This much is clear that the word "impossible" has not been used here in the sense of physical or literal impossibility. The performance of an act may not be literally impossible but it may be impracticable and useless from the point of view of the object and purpose which the parties had in view; and if an untoward event or change of circumstances totally upsets the very foundation upon which the parties rested their bargain, it can very well be said that the promissor finds it impossible to do the act which he promised to do.
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> 10. Although various theories have been propounded by the Judges and jurists in England regarding the juridical basis of the doctrine of frustration, yet the essential idea upon which the doctrine is based is that of impossibility of performance of the

> contract; in fact impossibility https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 and frustration are often used as interchangeable expressions. The changed circumstances, it is said, make the performance of the contract impossible and the parties are absolved from the further performance of the contract impossible and the parties are absolved from the further performance of it as they did not promise to perform an impossibility. The parties shall be excused, as Lord Loreburn says [See Tamplin Steam Ship Co.

Ltd. v. Anglo-Mexican Petroleum Products Co. Ltd., (1916) 2 AC 397, 403] "If substantially the whole contract becomes impossible of performance or in other words impracticable by some cause for which neither was responsible." In Joseph Constantine Steamship Line Limited v. Imperial Smelting Corporation Ltd. [1942 AC 154 at 168] , Viscount Maugham observed that the "doctrine of frustration is only a special case of the discharge of contract by an impossibility of performance arising after the contract was made". Lord Porter agreed with this view and rested the doctrine on the same basis. The https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 question was considered and discussed by a Division Bench of the Nagpur High Court in Kesari Chand v. Governor-General-in-Council [ILR 1949 Nag 718] and it was held that the doctrine of frustration comes into play when a contract becomes impossible of performance, after it is made, on account of circumstances beyond the control of the parties. The doctrine is a special case of impossibility and as such comes under Section 56 of the Indian Contract Act. We are in entire agreement with this view which is fortified by a recent pronouncement of this Court in Ganga Saran v. Ram Charan [1952 SCR 36 at 52] , where Fazl Ali, J., in speaking about frustration observed in his judgment as follows:

> "It seems necessary for us to emphasise that so far as the courts in this country are concerned, they must look primarily to the law as embodied in Sections 32 and 56 of the Indian Contract Act, 1872." We hold, therefore, that the doctrine of frustration is really an aspect or part of the law of discharge of contract by reason of supervening https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 impossibility or illegality of the act agreed to be done and hence comes within the purview of Section 56 of the Indian Contract Act. It would be incorrect to say that Section 56 of the Contract Act applies only to cases of physical impossibility and that where this section is not applicable, recourse can be had to the principles of English law on the subject of frustration. It must be held also, that to the extent that the Indian Contract Act deals with a particular subject, it is exhaustive upon the same and it is not permissible to import the principles of English law dehors these statutory provisions. The decisions of the English Courts possess only a persuasive value and may be helpful in showing how the Courts in England have decided cases under circumstances similar to those which have come before our courts.
>
> 11. It seems necessary however to clear up some misconception which is likely to arise because of the complexities of the English law on the subject. The law of frustration in England developed, as is well known, under the guise of reading implied terms into contracts. The court implies a term or exception and treats that as part of the

> contract. In the case https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 of Taylor v. Caldwell [3 B & S 826] , Blackburn, J.

first formulated the doctrine in its modern form. The court there was dealing with a case where a music hall in which one of the contracting parties had agreed to give concerts on certain specified days was accidentally burnt by fire. It was held that such a contract must be regarded "as subject to an implied condition that the parties shall be excused, in case, before breach, performance becomes impossible from perishing of the thing without default of the contractor". Again in Robinson v. Davison [(1871) LR 6 Exch 269] there was a contract between the plaintiff and the defendant's wife (as the agent of her husband) that she should play the piano at a concert to be given by the plaintiff on a specified day. On the day in question she was unable to perform through illness. The contract did not contain any term as to what was to be done in case of her being too ill to perform. In an action against the defendant for breach of contract, it was held that the wife's illness and the consequent incapacity excused her and that the contract was in its nature not absolute but https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 conditional upon her being well enough to perform. Bramwell, B. pointed out in course of his judgment that in holding that the illness of the defendant incapacitated her from performing the agreement the court was not really engrafting a new term upon an express contract. It was not that the obligation was absolute in the original agreement and a new condition was subsequently added to it; the whole question was whether the original contract was absolute or conditional and having regard to the terms of the bargain, it must be held to be conditional.

12. The English law passed through various stages of development since then and the principles enunciated in the various decided authorities cannot be said to be in any way uniform. In many of the pronouncements of the highest courts in England the doctrine of frustration was held "to be a device by which the rules as to absolute contracts are reconciled with a special exception which justice demands" [Vide Hirji Mulji v. Cheong Yue Steamship Co. Ltd., 1926 AC 497 Pat 510] . The court, it is said, cannot claim to exercise a https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 dispensing power or to modify or alter contracts. But when an unexpected event or change of circumstance occurs, the possibility of which the parties did not contemplate, the meaning of the contract is taken to be not what the parties actually intended, but what they as fair and reasonable men would presumably have intended and agreed upon, if having such possibility in view they had made express provision as to their rights and liabilities in the event of such occurrence [Vide Dahl v. Nelson, Donkin & Co., (1881) 6 AC 38 at 59] . As Lord Wright observed in Joseph Constantine Steamship Co. v. Imperial Smelting Corporation Ltd. [1942 AC 154 at 185] :

> "In ascertaining the meaning of the contract and its application to the actual occurrences, the court has to decide, not what the parties actually intended but what as reasonable men they should have intended. The court personifies for this purpose the reasonable man." Lord Wright clarified the position still further in the later case of Denny, Mott and Dickson https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Ltd. v. James B. Fraser & Co. Ltd. [1944 AC 265 at 275] , where he made the following observations:

"Though it has been constantly said by high authority, including Lord Sumner, that the explanation of the rule is to be found in the theory that it depends on an implied condition of the contract, that is really no explanation. It only pushes back the problem a single stage. It leaves the question what is the reason for implying a term. Nor can I reconcile that theory with the view that the result does not depend on what the parties might, or would as hard bargainers, have agreed. The doctrine is invented by the court in order to supplement the defects of the actual contract.... To my mind the theory of the implied condition is not really consistent with the true theory of frustration. It has never been acted on by the court as a ground of decision, but is merely stated as a theoretical explanation."

22. In the case of Boothalinga Agencies vs. V.T.C. Poriaswami Nadar [AIR 1969 SC 110], wherein in paragraphs 9, 10 and 14, the https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Supreme Court held as under:-

"9. We pass on to consider the next contention put forward on behalf of the appellant, namely, that in any event the imports (Control) Order, 1955 had come into force on December 7, 1955 and the performance of the contract became illegal after that date. It was pointed out that the goods arrived at the Madras port on December 13, 1955 and were cleared on December 20, 1955. Reference was made to the conditions imposed in the licence, Ex. B-9 that "the goods will be utilised only for consumption as raw material or accessories in the licence holder's factory and that no portion thereof will be sold to any party". It was contended that the appellant would be committing an offence under Section 5 of Act XVIII of 1947 if he sold the goods to the respondent in pursuance of the contract as the condition of the licence would be violated. In our opinion, the argument of the appellant is well- founded and must be accepted as correct. It is manifest that the disposal of the imported chicory which arrived at Madras port on December 13, https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 1955 was governed by the provisions of the Imports (Control) Order, 1955 which came into force on December 7, 1955. Clause 5(4) of the 1955 Order expressly provides that the licensee shall comply with all the conditions imposed or deemed to be imposed under that clause. Therefore the sale of the imported goods would be a direct contravention of clause 5(4) and under Section 5 of the Imports and Exports (Control) Act, 1947 any contravention of the Act or any order made or deemed to have been made under the Act is punishable with imprisonment up to one year or fine or both. In consequence, even though the contract was enforceable on November 26, 1955 when it was entered into, the performance of the contract became impossible or unlawful after December 7, 1955 and so the contract became void under Section 56 of the Indian Contract Act after the coming into force of the Imports (Control) Order, 1955. Section 56 of the Indian Contract Act states:

"An agreement to do an Act impossible in itself is void.

https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 A contract to do an Act which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible, or unlawful.

Where one person has promised to do something which he knew, or, with reasonable diligence, might have known, and which the promisee did not know to be impossible or unlawful, such promisor must make compensation to such promisee for any loss which such promisee sustains through the non-performance of the promise."

10. The doctrine of frustration of contract is really an aspect or part of the law of discharge of contract by reason of supervening impossibility or illegality of the act agreed to be done and hence comes within the purview of Section 56 of the Indian Contract Act. It should be noticed that Section 56 lays down a rule of positive law and does not leave the matter to be determined according to the intention of the parties.

14. Counsel on behalf of the respondent, https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 however, contended that the contract was not impossible of performance and the appellant cannot take recourse to the provisions of Section 56 of the Indian Contract Act. It was contended that under clause 1 of the Import Trade Control Order No. 2-

ITC/48, dated March 6, 1948 it was open to the appellant to apply for a written permission of the licensing authority to sell the chicory. It is not shown by the appellant that he applied for such permission and the licensing authority had refused such permission. It was therefore maintained on behalf of the respondent that the contract was not impossible of performance. We do not think there is any substance in this argument. It is true that the licensing authority could have given written permission for disposal of the chicory under clause 1 of Order 2-ITC/48, dated March 6, 1948 but the condition imposed in Ex. B-9 in the present case is a special condition imposed under clause (v) of para

(a) of Order 2-ITC/48, dated March 6, 1948 and there was no option given under this clause for the licensing authority to modify the condition of licence that "the goods will be utilised only for https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 consumption as raw material or accessories in the licence holder's factory and that no portion thereof will be sold to any party". It was further argued on behalf of the respondent that, in any event, the appellant could have purchased chicory from the open market and supplied it to the respondent in terms of the contract. There is no substance in this argument also. Under the contract the quality of chicory to be sold was chicory of specific description— "Egberts Chicory, packed in 495 wooden cases, each case containing 2 tins of 56 1b. nett". The delivery of the chicory was to be given by "S.S. Alwaki" in December, 1955. It is manifest that the contract, Ex. A-1 was for sale of certain specific goods as described therein and it was not open to the appellant to supply chicory of any other description. Reference was made on behalf of the respondent to the decision in Maritime National Fish, Limited v. Ocean Trawlers, Limited [1935 AC 524] . In that case, the respondents

chartered to the appellants a steam trawler fitted with an otter trawl. Both parties knew at the time of the contract that it was illegal to use an otter trawl without a licence https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 from the Canadian government. Some months later the appellants applied for licences for five trawlers which they were operating, including the respondents' trawler. They were informed that only three licences would be granted, and were requested to state for which of the three trawlers they desired to have licences. They named three trawlers other than the respondents', and then claimed that they were no longer bound by the charter-party as its object had been frustrated. It was held by the Judicial Committee that the failure of the contract was the result of the appellants' own election, and that there was therefore no frustration of the contract. We think the principle of this case applies to the Indian law and the provisions of Section 56 of the Indian Contract Act cannot apply to a case of "self-induced frustration". In other words, the doctrine of frustration of contract cannot apply where the event which is alleged to have frustrated the contract arises from the act or election of a party. But for the reasons already given, we hold that this principle cannot be applied to the present case for there was no choice or https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 election left to the appellant to supply chicory other than under the terms of the contract. On the other hand, there was a positive prohibition imposed by the licence upon the appellant not to sell the imported chicory to any other party but he was permitted to utilise it only for consumption as raw material in his own factory. We, are accordingly of the opinion that Counsel for the respondent has been unable to make good his argument on this aspect of the case."

23. In the case of State Trading Corporation of India vs. Union of India and Others [1994 Supp. (3) SCC 40], the following findings of the Supreme Court, in paragraph-5, are relied upon:-

> "5. The writ petitioners (Respondents 5 and 6 in the appeals) had entered into contracts with the appellant prior to 20-2-1979 for supply of silver for the purpose of export. In view of the ban imposed on the export of silver by notification dated 20-2-1979 they filed writ petitions in the Delhi High Court wherein it was https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 prayed that appropriate orders or writs may be issued restraining the Union of India, the Chief Controller of Imports and Exports and the Collector of Customs from enforcing the terms of the notification dated 20-2-1979 in respect of pre-ban commitments where contracts in respect thereof had already been duly registered under Column (3) of Item 77 of Part B of Schedule I to the Exports (Control) Order, 1977. In the alternative it was prayed that the said notification dated 20-2-1979 be declared as unconstitutional being violative of Article 19(1)(g) of the Constitution. The appellant was also impleaded as a respondent in the said writ petitions. The writ petitions were dismissed by the High Court by judgment dated 29-10-1979. The High Court held that the contract between the suppliers and the appellant for supply of silver for export and the contract of sale by the appellant with the foreign buyer are part of one whole and cannot be separately dealt with even though the appellant alone is the common party in these two types of contracts and the suppliers https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365,

29366 and 29916 of 2010 had no privity of contract with the foreign buyer from the appellant. In this context the High Court has observed:

"The effect of the total ban on the export of silver imposed by the Government of India on 20-2-1979 was that both these contracts became impossible of performance. The Corporation could not export silver to the foreign buyers. Similarly the suppliers could not compel the appellant to buy silver from the suppliers nor could the appellant compel the suppliers to sell the silver to the appellant. The contract between the petitioners and the Corporation was thus frustrated and came to an end under Section 56 of the Contract Act due to impossibility of performance. This frustration is a complete defence to the enforceability of the contract between these two parties."

24. In the case of Syed Khursed Ali vs. State of Orissa and Another [AIR 2007 Orissa 56], wherein the Allahabad High Court considered the 'doctrine of frustration' of venture. The Court held that "it is https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 clear from the facts of the case that the agreement entered into between the parties became impossible to perform as well as unlawful and, thus, amounted to frustration of the same. No-doubt provisions of Section 56 of the Contract Act, 1872, as quoted above, does not cover every case of frustration but it applies to a subsequent unforeseen event or contingency for which, neither of the parties is responsible. Giving regard to the nature and circumstances of the transaction and implied terms, no-doubt is cast in the present case that the performance of the contract on the part of the petitioner became an impossibility and such impossibility can be brought within the fold of "force-majeure".

25. In the case of D.F.O., South Kheri vs. Ram Sanehi Singh [(1971) 3 SCC 864], the Apex Court held as follows:-

"4. .. ..

We are unable to hold that merely because the source of the right which the respondent claims was initially in a contract, for obtaining relief against any arbitrary and unlawful action on the part of a public authority he must resort to https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 a suit and not to a petition by way of a writ. In view of the judgment of this Court in K.N. Guruswamy case [(1955) 1 SCR 305] there can be no doubt that the petition was maintainable, even if the right to relief arose out of an alleged breach of contract, where the action challenged was of a public authority invested with statutory power."

26. Regarding the maintainability of a writ petition, the petitioners relied upon the case of State of Kerala vs. M.K. Jose [(2015) 9 SCC 433], wherein the Supreme Court thought that contractual claim or challenge to violates the contract can be entertained by a Writ Court and it depends upon the facts of each case.

27. Relying on the abovesaid judgments, the learned counsel for the petitioners is of an opinion that the facts are not disputed the impossibility of performance of export of Iron Ore was established by the petitioners, which was not denied by the parties and in view of this common https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 development, the 'Force Majeure Condition' in Clause 14 of the allotment order is to be invoked and accordingly, the proposal to encash the Bank Guarantee is to be set aside.

28. The learned Additional Solicitor General of India raised serious objections regarding the maintainability of a writ petition. The interpretation offered on behalf of the petitioner for invoking the doctrine of frustration and 'Force Majeure Condition' as per the allotment order is absolutely untenable as the said principles would not apply with reference to the facts and circumstances of the case. The petitioners cannot hide their own mistakes resulted in imposing of ban on mining and thereafter shed crocodile tears. When the Port Trust made an attempt to encash the Bank Guarantee as per the condition made in the allotment order, it is the petitioners, who are responsible for the ban order imposed by the Government of Karnataka. They invited the situation on account of their illegal mining in large quantity resulted looting of Nation's wealth. Thus, the petitioners are not entitled for any relief. If at all the petitioners plead that https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 they are innocent of the allegation of mining put forth, the same is to be established before the Civil Court of Law and not before the Writ Court, wherein such an elaborate trial cannot be conducted.

29. The learned Additional Solicitor General of India rebutted the contentions of the petitioners by relying on the order passed by the Chennai Port Trust in proceedings dated 07.03.2015 and the said order reads as under:-

> “In the Chennai Port Trust, Iron Ore Staking Transit Area at Bharathi Dock-II, Mechanized Ore handling plot was allotted to 11 Iron Ore Exporters (their names and address at annexure) for the period from 01.02.2010 to 31.12.2010 for export of the Iron Ore duly fixing the Minimum Guaranteed Throughput. During the allotment period all the exporters have failed to achieve the MGT and hence they are liable to pay the shortfall charges. However, the Iron Exporters have informed that due to ban order of the Karnataka and Andhra Pradesh State https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Governments for mining and transportation of Iron Ore vide their order No. C1.162.MMM.

2010 dated 28.07.2010 and No.3092/2009/C3 dated 25.11.2009 respectively MGT could not be achieved. In view of the ban orders, the Iron Ore Exporters have requested the Chennai Port Trust to waive the shortfall charges by applying the force majeure conditions as per Clause 14 of the Plot allotment order issued to them.

Their request for waiver was rejected by the Port. As against the rejection order all the said exporters have approached the Hon'ble High Court of Madras and the Court ordered Interim Injunction restraining the respondent, Chennai Port Trust from forfeiting the security deposit/invoking the bank guarantee furnished by them in this regard. As per the orders of the Hon'ble High Court, the

BGs are periodically renewed by the Exporters in favour of the Chennai Port Trust.

In the above circumstances, it is requested to inform whether eleven Iron Ore Exporters mentioned as per annexure are all banned due to https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 the illegal mining. If so, kindly furnish the details to this Office with orders of Government of Karnataka." The abovesaid letter was addressed to the Director, Department of Mines and Geology, Government of Karnataka. The learned Additional Solicitor General of India made a submission that the Port Trust has not decided merely based on presumptions and assumptions or rejected the claim of the petitioners without any materials on record. Contrarily, the Port Trust made sincere attempt to get the entire facts and circumstances for the purpose of considering the appeal submitted by the petitioners and the other Mining Operators. In order to get the correct facts, the above letter dated 07.03.2015 was addressed to the Director, Department of Mines and Geology, Government of Karnataka. The reply dated 04.08.2015 from the Office of the Director of Department of Mines and Geology, reveals that all the parties referred by the Chennai Port Trust except MMTC are covered under the ban order. The list of Mining Operators and the details of mining lease in different categories and the illegalities found are categorically listed out in https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 the Annexures. The Lok Ayuktha conducted a detailed investigation with regard to the export of iron ore from the State in excess of the quantity for which transport permits were issued. Therefore, it is not as if the Chennai Port Trust has initiated immediate action. In fact, the details regarding the illegal mining of iron ore within the territory of State of Karnataka was collected and only after ascertaining the facts, the Chennai Port Trust initiated steps to encash the bank guarantee as the 'Force Majeure Condition' contemplated under the allotment order cannot be invoked in the case of the petitioners.

30. The learned Additional Solicitor General of India relied on the very same Division Bench judgment of the High Court of Karnataka in the case of V.S.Lad and Sons vs. The Secretary, State of Karnataka [2011 ILR KAR 1333], wherein, in paragraph-101, the Hon'ble Division Bench of Karnataka High Court made the following observations:-

"Adverse civil consequences to the petitioners would emerge from a conclusion, that the petitioners have been deprived from fulfilling https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 their contractual agreements, pertaining to export of iron ore. None of the Learned Counsel appearing before us, had drawn our attention to the breach of any term of contract executed by the petitioners. It was not pleaded before us, in any case, on behalf of any one of the petitioners, that a time schedule in their contract cannot now be fulfilled, as a result of afflux of time. In the absence of any such submission at the hands of the petitioners, it is difficult to conclude that the petitioners have suffered any adverse civil consequences, as a result of the passing of the impugned orders. It is therefore not even clear, in the facts and circumstances of the cases before us, that the petitioners could even demand compliance on the rules of natural justice."

31. In the case of Samaj Parivartana Samudaya vs. State of Karnataka [(2013) 8 SCC 154], the Hon'ble Supreme Court of India made observations in the matter of illegal mining and paragraphs 2.1, 3, 5, 6 and 7 are relevant and are extracted as under:-

> https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 "2.1 To issue a writ of mandamus or any other appropriate writ, order or direction, directing immediate steps be initiated by both the respondent States and the Union of India to stop all mining and other related activities in forest areas of Andhra Pradesh and Karnataka which are in violation of the orders of this Hon'ble Court dated 12-12-1996 in T.N. Godavarman Thirumulpad v. Union of India [(1997) 2 SCC 267] and the Forest (Conservation) Act, 1980."
>
> 3. The writ petition was entertained and the Central Empowered Committee (hereinafter for short "CEC") was asked [T.N. Godavarman Thirumulpad (53) v. Union of India, (2009) 17 SCC 755] to submit a report on the allegations of illegal mining in the Bellary region of the State of Karnataka. The very initial order of this Court is dated 19-11-2010 [State of A.P. v. Obulapuram Mining Co. (P) Ltd., (2013) 8 SCC 208] and was restricted to six mining leases granted in favour of M/s Bellary Iron Ore (P) Ltd., M/s Mahabaleswarapa & Sons, https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 M/s Ananthapur Mining Corporation and M/s Obulapuram Mining Company (P) Ltd. What followed thereafter is unprecedented in the history of Indian environmental jurisprudence.

It is neither necessary nor feasible to set out the series of reports of CEC and the various orders of the Court passed from time to time. Rather, a brief indication of the core reports of CEC and the main orders passed by the Court will suffice to understand what had happened so to enable the Court to unravel the course of action for the future.

5. The result of the survey by the Joint Team revealed a shocking state of depredation of nature's bounty by human greed. Objections of the leaseholders to the survey came early and were subjected to a re-examination by the special team itself under orders of the Court dated 23-9-2011 [State of A.P. v. Obulapuram Mining Co. (P) Ltd., (2011) 14 SCC 608] in the course of which 122 cases were re-examined and necessary corrections were effected in 33 cases. Thereafter, CEC submitted its report https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 termed as the "Final Report" dated 3-2-2012 which is significant for two of its recommendations. The first was for categorisation of the mines into three categories i.e. 'A', 'B' and 'C' on the basis of the extent of encroachment in respect of the mining pits and overburden dumps determined in terms of percentage qua the total lease area. The second set of recommendations pertained to the conditions subject to which reopening of the mines and resumption of mining operations were to be considered by the Court. A set of modified recommendations along with a set of detailed guidelines for preparation and implementation of Reclamation and Rehabilitation Plans (R&R) were also submitted to the Court by CEC on 13-3-2012.

6. Before the relevant extracts from the reports of CEC dated 3-2-2012 and 13-3-2012 are noticed, to make the discussion on the report of the Joint Team complete it will be necessary to note that in terms of the order dated 10-2-2012 [State of A.P. v. Obulapuram https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Mining Co. (P) Ltd., (2013) 8 SCC 212] of the Court, 66 representations were considered by CEC out of which only 4 were found tenable.

Accordingly, corrections were made in respect of the said four leases which corrections, however, did not involve any change of category. CEC placed the cases of two leaseholders i.e. M/s V.S. Lad & Sons and M/s Hothur Traders for consideration of the Court as to whether the said two leases placed in Category 'C' needed upgradation to Category 'B' in view of the minimal violation committed by them and the circumstances surrounding such violations.

7. We may now proceed to notice the relevant part of the two reports of CEC dated 3-2-2012 and 13-3-2012, as referred to hereinabove:

"IV. Classification of leases in different categories on the basis of the level of illegalities found.

27. CEC, based on the extent of illegal mining found by the Joint Team and as https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 appropriately modified by CEC in its proceeding dated 25-1-2012 and after considering the other relevant information has classified the mining leases into three categories, namely, Category 'A', Category 'B' and Category 'C'.

28. Category 'A' comprises of: (a) working leases wherein no illegality/marginal illegality have been found, and (b) non-working leases wherein no marginal/illegalities have been found. The number of such leases comes to 21 and 24 respectively.

29. Category 'B' comprises of: (a) mining leases wherein illegal mining by way of (i) mining pits outside the sanctioned lease areas have been found to be up to 10% of the lease areas, and/or (ii) overburden/waste dumps outside the sanctioned lease areas have been found to be up to 15% of the lease areas, and

(b) leases falling on inter-State boundary between Karnataka and Andhra Pradesh and for which survey sketches have not been finalised. For specific reasons as mentioned in https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 the statement of Category 'B' leases, M/s S.B. Minerals (ML No. 2515), M/s Shantalaxmi Jayram (ML No. 2553), M/s Gavisiddeshwar Enterprises (ML No. 80) and M/s Vibhutigudda Mines (P) Ltd. (ML No. 2469) have been assigned in Category 'B'. The numbers of such leases in Category 'B' comes to 72.

30. Category 'C' comprises of leases wherein: (i) the illegal mining by way of (a) mining pits outside the sanctioned lease area have been found to be more than 10% of the lease area, and/or (b) overburden/waste dumps outside the sanctioned lease areas have been found to be more than 15% of the lease areas, and/or (ii) the leases found to be involved in flagrant violation of the Forest (Conservation) Act and/or found to be involved in illegal mining in other lease areas. The number of such leases comes to 49." .. ..

.. ..

https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 VI. In respect of the mining leases falling in Category 'C' (details are given at Annexure R-11 to this report) it is recommended that:

> (a) such leases should be directed to be cancelled/determined on account of these leases having been found to be involved in substantial illegal mining outside the sanctioned lease areas, (b) the entire sale proceeds of the existing stock of the iron ore of these leases should be retained by the Monitoring Committee, and (c) the implementation of the R&R Plan should be at the cost of the lessee."

32. The learned Additional Solicitor General of India mainly relied on the judgment of this Court in the similar case of Tungabadra Minerals Private Limited vs. The Chairman, Chennai Port Trust [(2017) 2 MLJ 486], wherein this Court adjudicated the issues elaborately, including invocation of 'Force Majeure Conditions' and 'Doctrine of Frustration'. The suit was instituted by M/s.Tungabadra Minerals Private https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Limited against Chennai Port Trust. It is relevant to consider the issues involved by the High Court in the said civil suit, which reads as under:-

> "7. The following issues were framed for trial and adjudication:—
>
> (i) Whether the banning of export of iron ore by the Government of Karnataka is due to illegal mining of companies for violating the mining laws?;
>
> (ii) Whether the non-issuance of mineral dispatch permits vitiates the allotment orders issued by the defendants to the plaintiff?;
>
> (iii) Whether the ban on issuance of the mineral dispatch permits will invoke Force Majeure falls in terms of the allotment orders issued by the respondents?;
>
> (iv) Whether the ban order issued by the Government has frustrated the contract?;
>
> (v) Whether the allotment orders have become void pursuant to the Government Order banning issuance of mineral dispatch permits?;
>
> (vi) Whether the defendants are entitled to revoke bank guarantee issued by the plaintiff, on https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 account of the occurrence of events beyond the control of the parties?;
>
> (vii) Whether the defendants are entitled to any compensation by the plaintiff for non-

achieving of the minimum guaranteed throughput, on account of issuance of ban order?; and

(viii) To what other reliefs, the parties are entitled to?

33. The learned Additional Solicitor General of India referred the issue Nos.3 and 4 related to invocation of 'Force Majeure Condition' and whether the ban order issued by the Government of Karnataka has frustrated the contract. With reference to the abovesaid two issues, the following findings of this Court in the civil suit are relevant and the same are extracted hereunder:-

> "19. The fact that the Government of Karnataka had appointed Hon'ble Mr. Justice N. Santhosh Hegde, Lokayukta, to investigate into the illegal mining under the Karnataka Lokayukta Act https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 as early as 12.03.2007 and 09.09.2007 cannot be disputed by the plaintiff. This implies that two conclusions, can now be arrived at, firstly, that much prior to Ex.P-1 which as stated above was dated 31.01.2010, the plaintiff had direct and specific knowledge that mining of Iron Ore was the subject matter of an investigation by a competent authority, namely, the Karnataka Lokayukta who was also a former Supreme Court Judge, and secondly that the plaintiff company also being the subject of inquiry had still thought it fit to apply for Stacking Transit Area license with the defendants when there was always a possibility of its activities being curbed by administrative action. After all, whether the plaintiff was indulging in illegal mining activity or not, is a fact purely to its own knowledge. If the plaintiff actually violated the laws of the land to enrich itself, it will be very difficult to appreciate the stand subsequently taken, that it was a victim of a ban, and not the perpetrator of the ban. The findings of the said committee was submitted on 18.12.2008. Again this fact cannot be disputed by https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 the plaintiff. This leads us to a further conclusion that based on the findings, a Damocles Sword was always hanging over the plaintiff company atleast from 18.12.2008, the date of the interim report.

The interim report had given very damaging findings which have been extracted in the written statement filed by the defendants. The plaintiff has not thought it fit to file any reply statement and consequently, the facts pleaded in the written statement stand uncontroverted. The findings as summarised in the written statement filed by the defendants are as follows:— "There are illegal mining activities carried out by the mining leasers.

Iron Ore community earned Rs. 60,000 crores for the year 2007-2008 alone.

Encroachments in large cases, traversed in to the adjoining forest areas and Government revenue lands.

Almost all Lorries engaged in carrying minerals were over loaded, far in excess of the permissible limits.

https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 The over loaded mineral ore had caused extensive damage to all roads used for the transportation of iron ore.

Legally mined iron ore was mixed with the illegally mined iron ore.

60 mining lease holders encroached into the forest land.

56 forest offence cases had been registered in the Courts of Magistrate.

Large numbers show cause notices had been issued by the Director of Mines and Geology, Karnataka to erring mining lase holders for terminating their lease agreements.

The Karnataka Government passed Karnataka Minerals (Regulation of Transportation) Rules 2008 to prevent illegal mining operations. Some of the licensee's including some of the Writ Petitioners before the Hon'ble Court had filed Writs against the said act before the Hon'ble High Court of Karnataka and got interim stay against the said act.

Illegal minerals stacked the iron ore illegally in the ports and violated the India Ports Act." https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010

24. Issue No.2 relates to the Ex.P-5 Government Order dated 28.07.2010 in G.O. No. CI 162 MMM 2010 Bangalore dated 28.07.2010. The preamble to the said Government Order stated that on 20.03.2010 the Forest Department seized approximately 8,05,991 mts of illegal stock of Iron Ores from Belikeri Port and approximately 1,15,399 mts of illegal stock at Karwar Port. It had been further stated that out of the above, 6 lakhs tonnes of Iron Ores at Belikery Port and about 65,409 mts of Iron Ores at Karnataka Port was for illegal export. The Government of Karnataka had filed cases in this regard. The Government of Karnataka had further considered the quantity of Iron Ore illegally produced in the State in comparison with the quantity of the local use and its export quantity. It was found that Iron Ore in excess of the quantity permitted was exported to foreign country and quantity of Iron Ore used for domestic use was considerably higher than the quantity of authorised production of Iron Ore. It was to prevent the above that the Karnataka Lokayukta was requested to investigate https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 and after the finding was given, with a view to stop illegal mining activities and illegal transportation, the Government of Karnataka had passed the said Government Order under Ex.P-5. In fact, the urgency is seen from the fact that the order was passed to take effect immediately and to continue until further orders. It has been further stated that it was inevitable that the order has to be passed. The said order had been extracted above and is reiterated below.

"GOVERNMENT ORDER No. CI. 162 MMM 2010, BANGALORE DTAED 28.07.2010 In view of the factors explained in the preamble, the Government hereby prohibits issuance of mineral dispatch

permit for transportation iron ore for the purpose of exporting the same from the State with immediate effect and until further orders.

The Deputy Directors and Senior Geologists of all the Districts are hereby instructed to strictly comply with this order and to initiate all necessary effect actions immediately to present illegal mining: transportation." https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 "26. A perusal of Ex.P-1 shows that the plaintiff had sought for allotment from the defendants by letter dated 7.11.2009. This was prior to the dates mentioned in Ex.P-5 when the Lokayukta had already submitted its report after detailed investigation. Thus, the plaintiff knew at the time when they applied for allotment that at any time there was a very very strong possibility that the Government of Karnataka will take necessary steps to prevent illegal mining. The plaintiff has indulged in a voluntary gambit by seeking allotment of staking area license. They knew their activities were illegal or rather were perceived to be illegal by the Lokayakta. Still their aim to fill their coffers did not subside and they initiated steps to export the illegally mined Iron Ore. They cannot claim innocence and seek indulgence from this Court." "27. Had the plaintiff not indulged in illegal mining, the burden was on them to establish that their mining were completely over board and seek continuation of mining of Iron Ore. The fact that their challenge to the Government Order had https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 failed before the High Court of Karnataka also establishes that they were in fact involving in illegal mining activity at the relevant period. Consequently, I hold that the non issuance of mining dispatch permits does not vitiate the allotment order. The allotment order is per se legal. It is the allottee who was mined with illegal activities inviting ban of mining dispatch permits. That can never vitiate the allotment order." It is thus seen that Section 56 of the Indian Contract Act, which reads as follows, cannot be pressed into by the plaintiff:— "56. Agreement to do impossible act. - An agreement to do an act impossible in itself is void. Contract to do act afterwards becoming impossible or unlawful. - A contract to do an act which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful.

Compensation for loss through non-

performance of act known to be impossible or unlawful - where one person has promised to do https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 something which he knew, or, with reasonable diligence, might have known, and which the promisee did not know, to be impossible or unlawful, such promisor must make compensation to such promisee for any loss which such promisee sustains through the non-performance of the promise".

In this case also, as repeatedly pointed out, the plaintiff has invited its own ban and the fact that the frustration depends on an intervening and supervening circumstance has an exception clause, namely, when frustration is self induced. Consequently I hold that the allotment order had not become void pursuant to the Government Order banning issuance of mining discharge permits and that they have not frustrated the contract, since the plaintiff has invited the ban and the Force Majeure Clause cannot be invoked by the plaintiff since as stated again, they are responsible for

continuing with illegal mining and the non issuance of mining discharge permits does not vitiate the allotment orders. Impossibility of performance pleaded by the plaintiff has to be https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 rejected since voluntary indulgence in illegal mining inviting a bar, can never be recognised in a Court of law as a ground to render an agreement void. Accordingly, I hold issue Nos.2, 3, 4, 5, against the plaintiff." It is contended that the suit instituted was dismissed. The Original Side Appeal filed is pending.

34. The learned Additional Solicitor General of India relying on the judgment in the civil suit on the same issue instituted by the another Mining Operator, said that this Court in clear terms formed an opinion that 'Force Majeure Clause' cannot be invoked in view of the illegal mining traced out in respect of these Mining Operators. Once the illegal mining is traced out, actions are initiated and consequently the Government imposed ban, then it cannot be construed as unforeseen circumstances and thus, the doctrine of frustration or the 'Force Majeure Condition' would not be applicable with reference to the facts and circumstances of these cases and consequently, all the writ petitions are liable to be rejected.

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35. Considering the thoughtful arguments as advanced by the learned counsel for the petitioners and by the learned Additional Solicitor General of India, the point to be considered for entertainability of the writ petition is of relevant and further invocation of 'Force Majeure Condition' and the 'Doctrine of Frustration' and if these two principles are applied, then writ proceedings can be entertained or not, within the scope of the powers of judicial review under Article 226 of the Constitution of India.

36. Let us consider the undisputed facts. The petitioners are the Mining Operators mining Iron ore in the State of Karnataka and exporting the same, issued with an order of allotment for sanctioning iron ore staking transit open area. The petitioners fulfilled their obligations by depositing the amount demanded and they commenced their business operations as agreed.

During midway, the Government of Karnataka passed an order imposing complete ban of mining of iron ore and such a ban order was issued pursuant to the enquiry conducted by Lok Ayuktha regarding large scale illegal mining operations within the State of Karnataka. The Government https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Orders were challenged by the Mining Operators before the High Court of Karnataka and the said writ petitions were dismissed by the Hon'ble Division Bench of the High Court of Karnataka upholding the ban imposed by the Government of Karnataka.

37. Pertinently, the High Court of Karnataka, while dismissing the writ petition, made certain pertinent observations. The said observation is that 'for maintaining the law and order all necessary measures should be permitted to be adopted without any interference, but while doing so, the rights of the innocent parties should not be infringed as far as it is practically possible'. Thus, the High Court of Karnataka made an observation after dismissing the writ petitions filed by the Mining

Operators that by a blanket order without first distinguishing the wrong doers from those who are innocent, the Executive Government cannot adversely effect the civil rights of all those who are engaged in the export of iron-ore for an unlimited period of time. Thus, the High Court of Karnatka clarified that the rights of innocent Mining Operators are to be protected.

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38. It is relevant to look into the proceedings of the Government of Karnataka dated 26.07.2010 and 28.07.2010. Regarding prohibition of export of iron ores from the ports in the State, the preamble of the ban order states that the case regarding illegal mining was handed over to the Hon'ble Lok Ayuktha as per Section 7(2A) of the Kartanaka Lok Ayuktha Act, 1984 to conduct investigation with regard to the proposed illegal mining activities and the actions against the Government.

39. The facts were considered in the Assembly Session held made serious discussions about illegal Mining Industries in the State. Under those circumstances, the Government found it is to be necessary in the interest of the public to conduct a full-fledged enquiry with regard to the charges of illegal export of minerals and the period of investigation handed over to Hon'ble Lok Ayuktha was also extended. It was found that certain Export Companies were transporting iron ore without even obtaining any permission from the Karnataka Control Board and other Authorities. Under https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 those circumstances after examining the issues thoroughly, the Government passed an order of prohibition of exporting iron ores from the Ports.

Consequently the proceedings dated 28.07.2010 was issued exporting iron ore from the State of Karnataka under any circumstances was banned with immediate effect and until further orders. Thus the preamble of the ban order reveals that Hon'ble Lok Ayuktha conducted an investigation and large scale illegal mining in the State of Karnataka was debated in the Assembly Sessions and on the basis of the charges from various quarters and based on the report of investigations, ban order was passed in the public interest. The said ban order was confirmed by the High Court of Karnataka and the Supreme Court.

40. Taking into consideration, the nature of ban order and the compelling circumstances made, the Government of Karnataka to impose the ban on the Mining operations are relevant for the purpose of considering the principles for invoking 'Force Majure Conditions' as per the allotment order in these writ petitions.

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41. Undoubtedly, at this point of time in these writ petitions, this Court cannot form an opinion that all the Mining Operators have committed an offence of illegal mining. It is not an endeavour of this Court to consider the issues, whether the petitioners have involved in such illegal mining activities or not. The said issue requires an elaborate adjudication with reference to the original documents and evidences, including oral evidences. In this context, it is relevant to consider the judgment of this Court in the civil suit filed by one of the Mining Operators, namely, Tungabadra Minerals

Private Limited vs. The Chairman, Chennai Port Trust [(2017) 2 MLJ 486], the High Court framed the issues whether the ban on issuance of the mineral dispatch permits will invoke Force Majeure falls in terms of the allotment orders issued by the respondents. The other issue is whether the ban order issued by the Government has frustrated the contract. Paragraph-19 of the abovesaid judgment speaks about the appointment of Hon'ble Mr. Justice N.Santhosh Hegde to investigate into the illegal mining under the Karnataka Lok Ayuktha Act. The facts pleaded in https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 the written statement by the defendants in the suit set uncontroverted and the Court summarised the written statement.

42. The written statement pleads about the illegal mining activities in large scale in the State of Karnataka. After considering the documents with reference to the Lok Ayuktha investigations and considering the evidences filed in the civil suit, Court made a finding that 'the plaintiff knew at the time when they applied for allotment that at any time there was a very strong possibility that the Government of Karnataka will take necessary steps to prevent illegal mining. The plaintiff has indulged in a voluntary gambit by seeking allotment of staking area license. But they knew their activities were illegal or rather were perceived to be illegal by the Lokayukta. Still their aim to fill their coffers did not subside and they initiated steps to export the illegally mined Iron Ore. They cannot claim Innocence and seek indulgence from this Court.'

43. Thus, it is made clear that as early as in the year 2007, https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 investigations induced illegal mining were underway. The Lok Ayuktha was conducting investigations. Knowing all these factors that illegal mining ores going on in the State of Karnataka and investigations are underway by the Lok Ayuktha, the petitioners submitted an application for allotment in Chennai Port Trust and the license was granted in the year 2010. When the petitioners were aware of these factors, the Court could not able to arrive a conclusion that the petitioners cannot plead innocence for the purpose of invoking 'Force Majeure Condition' as stipulated in the allotment order.

Consequently, the petitioners cannot say that it was on unforeseen circumstances.

44. In common parlance, a person who has involved in illegal mining will always expecting actions from the Government as the Mining Operators is aware of such illegal mining. In such circumstances, the actions if any initiated cannot be construed as an unforeseen circumstances warranting enforcement of 'Force Majeure Clause' as the illegality cannot be a ground to invoke the beneficial clause contemplated in the allotment order.

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45. Any terms and conditions in a contract is presumably made with good intention. A person who act genuinely and performing his portion of obligation in the manner known to law alone is entitled to claim the beneficial clause in the contract/agreement. Any person against whom an allegation of illegality is contemplated and such allegations are traced in wider range in the entire State of Karnataka affecting the public interest in a larger manner and the Government imposed ban then

the Mining Operators cannot plead innocence or claim invocation of any beneficial clause like 'Force Majeure Condition' for the purpose of avoiding encashment of bank guarantee as per the allotment order.

46. The High Court has further considered Section 56 of the Indian Contract Act. It is found that the plaintiff has invited its own ban and the fact that the frustration depends on an intervening and supervening circumstance has an exception clause, namely, when frustration is self induced. The Court forms an opinion that since the plaintiff has invited a https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 ban and the 'Force Majeure Clause' cannot be invoked by the plaintiff since as stated again, they are responsible for continuing with illegal mining and the non issuance of mining discharge permits does not vitiate the allotment orders. Impossibility of performance pleaded by the plaintiff has to be rejected since voluntary indulgence in illegal mining inviting a bar, can never be recognised in a Court of Law as a ground to render an agreement void.

47. In the civil suit before the High Court by the other Mining Operators was dismissed and Original Side Appeal is pending. Under these circumstances, this Court would like to consider the principles relied on for the purpose of considering the issues raised in these writ petitions

48. The writ petitioners whether liable for illegal transporting of mining of iron ore if so to what extent and if not the consequences, all requires an elaborate adjudication with reference to the documents and evidences. Undoubtedly, those elaborate consideration of issues and adjudication cannot be undertaken in the writ proceedings under Article 226 https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 of the Constitution of India.

49. At this juncture, it is relevant to consider the scope of judicial review under Article 226 of the Constitution of India. The power of judicial review is confined to the extent of adjudicating the processes through which the issues were considered by the Competent Authorities in consonance with the Statutes and Rules and also the procedures, but not the decision itself.

50. In these cases, the Chennai Port Trust has not taken the decision and banned the impugned order unilaterally or immediately. They have addressed a letter to the Department of Mining and Geology Department, Government of Karnataka and the Government of Karnataka in their reply categorically stated that the Mining Operators listed out by Chennai Port Trust is also included in the list of illegal Mining Operators in the Investigation Report. The Annexure enclosed in the reply reveals that the petitioners names are available. However, the informations given by the https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Government of Karnataka regarding the illegal mining operations as one aspect of the matter, the defence made by the petitioners that they are innocence of illegal mining is the other aspect. In between this, the disputed issues cannot be adjudicated in the writ proceedings under Article 226 of the Constitution of India is the point which cannot be thrown away.

51. The learned counsel for the petitioners drew the attention of this Court with reference to the judgment of the Hon'ble Supreme Court of India, wherein a finding is made that contractual

obligations also may be a ground to adjudicate the issues in the writ proceedings. No doubt the scope of Article 226 of the Constitution of India is wider enough to entertain the writ petitions filed based on certain contractual obligations. The High Court is empowered to issue writ against the private parties if performance of public duties are established. In large, Article 226 of the Constitution of India shall be exercised to provide complete justice to the parties as it is a constitutional remedy available for every citizen of our Great Nation. Thus, it is not as if every such writ petition filed based on certain contractual https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 obligation is to be rejected on the threshold. However, the facts and circumstances of each case plays a pivotal role for entertaining the writ proceedings under Article 226 of the Constitution of India. Even the Apex Court in unequivocal terms held in many number of cases that, principles are to be applied based on facts of each case and blind application of principles would mislead the process of Justice Delivery System. Therefore, independent consideration of facts and circumstances must be relevant for the purpose of forming an opinion.

52. The other judgments relied on by the petitioners are of no avail to them as in those cases the allegation of illegal mining are not made available. A distinct factors to be considered in the present case is that the allegation of illegal mining charges of exorbitant mining over and above the permit investigations by the Lok Ayuktha, debates made in the Assembly Sessions and the final decision taken by the Government of Karnataka imposing ban on Mining Operations. These factors are dominant for the purpose of considering the principles of 'Force Majeure' and 'Doctrine of https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Frustration'.

53. While considering the facts and circumstances, the question arises whether the Writ Court under Article 226 of the Constitution of India, may form an opinion that the petitioners are the innocent mining operators and they have not involved in any excess or illegal mining operations in the State of Karnataka or not. Whether such an adjudication is permissible in writ proceedings under Article 226 of the Constitution of India.

54. The answer would be that the pleadings and the documents in these writ petitions require deeper adjudication by way of trial in order to provide clear findings. It is not possible for the Writ Court to arrive a conclusion that the petitioners have involved in illegal or excessive mining operations if so, to what extent they are liable. Such nature of issues require the trial nature adjudication and therefore, the petitioners have to approach the Competent Civil Court of Law to fix the ratio of liability or seeking complete exoneration under the 'Force Majeure Clause'.

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55. In these writ petitions, one such Mining Operators filed a civil suit as referred above before this Court and the said civil suit was also dismissed. In the said civil suit, there is a categorical finding that the doctrine of frustration with reference to Section 56 of the Indian Contract Act and the 'Force Majeure Condition' contemplated in the allotment order issued by the Chennai Port Trust cannot be of any avail to the plaintiff as the Mining Operators invited the ban order and therefore, it cannot be

construed as an unforeseen circumstances for the purpose of granting the benefit of 'Force Majeure Clause'. In a civil suit, when the High Court has categorically found that the plaintiff mining operator is not entitled to invoke the 'Force Majeure Clause' or claim benefit under the 'Doctrine of Frustration', then there is no reason for this court to arrive a conclusion that the said benefits are to be extended to these writ petitioners, more specifically, in the writ proceedings under Article 226 of the Constitution of India. When the other Mining Operator could not able to establish about their innocence of the allegations of illegal mining, this Court is of an opinion that these writ https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 petitioners also expected to approach the Competent Civil Court for the purpose of establishing their innocence or otherwise through documents and evidences.

56. Contrarily, merely relying on the ban order, this Court cannot form an opinion that the ban order issued by the Government of Karnataka is beyond the control of the petitioners Mining Operators and the ban order resulted in impossibility of performance and therefore, Section 56 Indian Contract Act Act is applicable and consequently, the 'Force Majeure Clause' under the allotment order is to be allowed and the Port Trust must be prevented from encashing the bank guarantee as per the terms and conditions. Such an argument do not hold good as this Court at any circumstances form such an opinion in the absence of a trial. The extent of liability etc., are also to be quantified. All such contractual obligations between the parties require an adjudication and when such trial natured adjudication is imminent, then the High Court would not entertain a writ petition under Article 226 of the Constitution of India as the same will result https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 in miscarriage of justice.

57. Considering the facts and circumstances, the decision taken by the respondent-Chennai Port Trust is based on communications and the reply with the Directorate of Mining and Geology Department, Government of Karnataka. The names of the petitioners are also found in the list of illegal mining operators. The ban order passed by the High Court of Karnataka was upheld. Thus, the Chennai Port Trust considered all the facts and circumstances and taken a decision that the petitioners are not entitled to invoke 'Force Majeure Clause' under the allotment order, as the ban order was issued on account of the own act of the mining operators, which cannot be construed as unforeseen circumstances. However, in respect of terms and conditions of the contract for assessing the quantum or otherwise, the High Court cannot adjudicate in the writ proceedings under Article 226 of the Constitution of India. As pointed out, the parties are bound to resolve these disputed issues through the Competent Civil Court of Law and further more the other mining operator, who filed the civil suit, was also dismissed and https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 the Original Side Appeal is subjudiced.

58. This being the factum, this Court do not find any infirmity in respect of the decision taken by the Chennai Port Trust that the 'Force Majeure Clause' stipulated in the contract, cannot be applied as the names of the petitioners are also listed in the list of illegal mining operators by the State of Karnataka. The Chennai Port Trust has taken the decision after collecting informations and materials from the Department of Mining and Geology, Government of Karnataka. Thus, the writ petitioners are not entitled to invoke the benefit of 'Force Majeure Clause' or the 'Doctrine of

Frustration' for grant of complete exoneration with reference to the terms and conditions stipulated in the allotment order. However, the other disputes regarding the quantum or otherwise, the petitioners are at liberty to approach the Competent Civil Court of Law for the purpose of redressal of their grievances in the manner known to law.

59. With the abovesaid liberty, all the writ petitions fail and https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 stand dismissed. However, there shall be no order as to costs. The connected miscellaneous petitions are also dismissed.

25-11-2021 Index : Yes/No. Internet : Yes/No. Speaking Order/Non-Speaking Order.

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1.The Chairman, Chennai Port Trust, No.1, Rajaji Road, Chennai – 600 001.

2.The Chief Mechanical Engineer, Chennai Port Trust, No.1, Rajaji Salai, Chennai – 600 001.

S.M.SUBRAMANIAM, J.

Svn https://www.mhc.tn.gov.in/judis WPs29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 Pre-Delivery Common Order in WP Nos.29218 to 29222, 29177, 29365, 29366 and 29916 of 2010 25-11-2021 https://www.mhc.tn.gov.in/judis