

A.F.R.

HIGH COURT OF ORISSA: CUTTACK

W.P.(C) No.20085 of 2011

In the matter of an application under Articles 226 and 227 of the Constitution of India.

Rahul Mishra,
Son of Sudhansu Sekhar Mishra,
Proprietor of Mishra Stone Crusher,
Agalpali, Village/PO: Chhatamakhana,
PS: Bolangir Sadar, Dist: Bolangir

... Petitioner

-Versus-

Collector, Bolangir and others

... Opp. Parties

For Petitioner : M/s. H.S.Mishra, A.K.Mishra,
T.K.Sahoo & A.S.Behera

For opp. parties : Mr. R.K. Mohapatra,
Government Advocate
Mr.P.K. Muduli,
Addl. Standing Counsel

P R E S E N T:

**THE HONOURABLE THE CHIEF JUSTICE SHRI.V.GOPALA GOWDA
AND**

THE HONOURABLE SHRI JUSTICE B.N.MAHAPATRA

Date of Judgment:28.03.2012

B.N. Mahapatra, J. This writ petition has been filed with a prayer for quashing order No.265 dated 01.03.2011 (Annexure-5) passed by opposite party No.3-Tahasildar Loisingha and order dated 30.04.2011 (Annexure-6) passed in Misc. Appeal No.6 of 2011 by opposite party No.2-Sub-Collector, Bolangir on the ground that those orders were passed illegally, arbitrarily and contrary to

the provisions of the Orissa Minor Mineral Concession Rules, 2004 (for short, 'Rules, 2004') and contrary to the spirit of special attention to Bolangir, Kalahandi and Koraput (undivided) districts concerning the most backward districts of the country and for quashing the letters issued under Annexures 7, 8 and 9 to the extent referred by opposite parties 2 and 3 in refusing to renew the lease granted in favour of the petitioner. The further prayer is for issuance of a direction to opposite parties 2 and 3 to renew stone quarry lease in question with respect to Stone Quarry No.03/2007 in village Banjipali to ensure speedy supply of raw-materials to run the Crusher unit of the petitioner.

2. Petitioner's case in a nutshell is that the petitioner owns a small industry of stone crusher and for this purpose he obtained registration certificate from the District Industries Centre (for short, 'DIC'). Opposite party No.1-Collector, Bolangir also granted certificate in favour of the petitioner to install the stone crusher unit over an area of Ac.4.88 decimals of Mouza: Agalpali. The petitioner applied for a loan of Rs.19.00 lakhs from Bolangir Anchalika Gramya Bank/Utkal Gramya Bank, Chhatamkhana to run its crusher unit. Petitioner applied for lease of stone quarry bearing No.3 of 2007 in village Banjipalli after complying all the requirements and opposite parties 1 and 2 granted lease in favour of the petitioner for three years with effect from 06.05.2008 up to 05.05.2011. On the basis of the lease granted for the aforesaid quarry, the petitioner has obtained blasting licence to make the stone to smaller size to be used as raw materials for

crusher unit. Under Annexure-4, the petitioner applied for renewal of the lease for another five years as the same was going to expire on 05.05.2011 enclosing necessary fees, certificates, lease deed along with application etc. and the said application was received in the office of opposite party No.3- Tahasildar, Bolangir on 22.02.2011. The opposite party No.3 rejected the application of the petitioner seeking extension of stone quarry lease in village Banjipali vide his order dated 01.03.2011 (Annexure-5) on the ground that the Government of Orissa in Revenue Department vide letter No.17428/R dated 10.04.1997 and subsequent Circular vide G.O. No.36665/R dated 06.09.2005 (Annexure-8) followed by letter No.1470/R dated 06.09.2008 (Annexure-7) issued by the Board of Revenue, Orissa have emphasized that all the sources containing minor mineral specified in item-1(i) of Schedule-III shall be settled through annual Auction route only notwithstanding the fact that there is a separate chapter, i.e., Chapter-IV in the Rules, 2004 providing sanction of long term quarry lease of such minor mineral sources. Being aggrieved by the order under Annexure-5 dated 01.03.2011, the petitioner approached opposite party No.2 by way of Misc. Appeal No.6 of 2011 as prescribed under Rule 64 of the Rules, 2004 which was dismissed by opposite party No.2 vide order dated 30.04.2011 under Annexure-6. Hence, the present writ petition.

3. Mr.H.S.Mishra, learned counsel for the petitioner submitted that the impugned orders under Annexures-5 and 6 passed by opposite party Nos. 2 and 3 are illegal, arbitrary and without application of mind

and are contrary to the provisions of Rules, 2004. Unless the petitioner is allowed renewal of quarry lease granted earlier in his favour in Quarry Lease Case No.3/2007, the provisions under Chapter-IV of Rules, 2004 regarding grant of Quarry leases and its renewal will become redundant. Before Rules, 2004 came into force the Minor Mineral Rules, 1990(for short, 'Rules, 1990') were in force. The said Rules, 1990 have been repealed as per Rule 80 of the Rules, 2004. In Rules, 2004 there is a special Chapter for auction, i.e., Chapter-VI. As per the said Chapter-VI, the item of minor minerals which are to be put to auction has been specified in Item No.1(i) of Schedule-III of the said Rules, 2004. In the Rules, 1990 there was no separate provisions specifying minor minerals to be put to auction in any Schedule under Chapter-IV of the said Rules. Unless the impugned orders under Annexures-5 and 6 are quashed and opposite parties are directed to grant/renew the lease in question in favour of the petitioner, induction of Rules, 2004 by specifying the minor minerals to be auctioned out of the whole lot of minor minerals defined under the Rules, 2004 coming under Chapter-VI becomes completely redundant as the same is contrary to the aims and objectives of the law makers while incorporating the said Chapter in the Rules, 2004. Quarry lease granted and applied for renewal by the petitioner is not for any of the minerals mentioned in item 1(i) of Schedule-III referred to under Chapter-VI of Rule 35 of the Rules, 2004 meant for auction. The quarry lease applied by the petitioner is with respect to stone other than the decorative stone and minor minerals stipulated in Item

No.1(i) of Schedule-III. This is a stone quarry available over the land described to be “Pathar Chatan” over plot No.91 of Village: Banjipali. The same are to be blasted and made it transportable pieces to transport to the crusher machine for crushing the same into different size of stone chips. Therefore, the quarry lease in question is not coming under the Schedule and liable for auction under Rules, 2004.

4. Letter dated 10.04.1997 of Board of Revenue, Orissa were issued prior to coming into force of Rules, 2004. The said letter dated 06.09.2008 (Annexure-7) is also contrary to the statutory provisions made under Rules, 2004 and is not binding in nature and therefore is liable to be quashed. The judgment dated 21.03.2007 passed by this Court in O.J.C. No.6208 of 1999 was delivered in a case while dealing with Rules, 1990. Circular vide G.O. No.36665/R dated 06.09.2005, G.O. No.4407/R dated 06.02.2006 referred to in the letter under Annexure-7 issued by the Government of Orissa in Revenue Department are contrary to the statutory provision made under Chapter-VI of the Rules, 2004. Therefore, the Government Order dated 06.09.2005 (Annexure-8) and 06.02.2006 (Annexure-9) are unsustainable. The G.O. Letter No.36665/R dated 06.09.2005 (Annexure-8) referred to the Rule 53 of Manual of Tahasil Accounts along with Rule 35 of Rules, 2004 while directing to settle the Sairat sources in public auction on priority basis as per the provision laid down in Chapter-VI of 2004 Rules read with Section 53 of the Manual of Tahasil Accounts is totally illegal, arbitrary and contrary to the provisions

of Rules, 2004. Paragraph 5 of G.O. No.4407/R dated 06.02.2006 (Annexure-9) referred to under Annexure-7 is self contradictory and confusing.

5. Rule 26 of the Rules, 2004 stipulates about application for quarry lease and its renewal. Rule 27 speaks about the mode of disposal of the said application emphasizing the categories of persons, unit giving priority in case two or more applications are received in respect of the said land/area. In the case at hand, the petitioner alone had applied for grant of quarry lease over Plot No.91, Holding No.120 of Mouza: Banjipali vide quarry Misc. case No.03/2007. Refusal for renewal of the lease with reference to the letters issued by the Revenue Department as well as Board of Revenue, Orissa, in spite of the separate provision of Chapter-IV providing long term quarry lease, is completely illegal, mechanical and in gross violation of the provisions of Rules, 2004. For the same reasons, the letters under Annexures-7,8 and 9 are also liable to be quashed. The petitioner is solely dependent on the stone quarry. If the same is not leased out to the petitioner, the quarry unit would be closed. If the said source is put to auction that will lead the petitioner to uncertainty. Rule 26 of Rules, 2004 is applicable to the case of the petitioner. The petitioner has been availing the facilities of quarry permit as provided under Rule 30 of the Rules, 2004 on payment of due amount from time to time, during pendency of the application made under Rule 26.

6. The petitioner has established his Crusher unit in the most backward area like Bolangir, Koraput (undivided districts) which are recognized as the most backward districts of the country by taking loan of Rs.40.00 lakhs. On one hand, Government is encouraging industries in the said backward area and on the other; the petitioner is facing several obstacles because of the Notification issued by the Government in different Departments. The action of opposite parties is hit by Articles 14 and 21 of the Constitution of India. No valid reason is there to justify as to why the provisions of Rules 26 and 30 of Rules, 2004 would not be adhered to and the said sources shall be put to auction as provided under Rule 35 of the said Rules.

7. Mr.R.K.Mohapatra, learned Government Advocate submitted that no lessee has any right of having renewal of a licence/lease. There is no specific provision for renewal of the lease. No monopoly can be claimed by any individual so far the State resource is concerned. Therefore, the State has only the monopoly over its resources.

8. On rival contentions advanced by the parties, the only question that arises for consideration of this Court is as to whether opposite party no.2-Sub-Collector, Balangir is justified in passing the order dated 30.4.2011 in Misc. Appeal No. 06 of 2011 upholding the order dated 01.03.2011 passed by opp. party no.3-Tahasildar in Loisingha Quarry Lease Case No.03/07 wherein the petitioner's application for renewal of quarry situated at village Banjipalli, P.S. Loisingha over Plot No.91, Khata

No.20, Kisam Pathar Chatan area has been rejected and the petitioner was intimated that the said source would be settled through public auction.

9. Admittedly, the petitioner has applied for lease of stone quarry bearing No.3 of 2007 in village Banjipalli and opposite parties 1 and 2 granted lease in favour of the petitioner for three years with effect from 06.05.2008 up to 05.05.2011. Further, when the petitioner made application for renewal of such lease vide Annexure-4, the same was rejected vide letter under Annexure-5. Perusal of Annexure-5 reveals that opposite party No.3-Tahasildar rejected the application of the petitioner for renewal of such lease on the basis of letter issued by Government of Orissa in the Department of Revenue vide letter No.17428/R dated 10.04.1997 and letter No.36665 dated 06.09.2005 followed by letter dated 1470/R dated 06.09.2008 of the Board of Revenue, Orissa, which provide that sources containing minor minerals should be settled through annual auction route only notwithstanding the fact that there is a separate chapter, i.e., Chapter-IV in the Rules, 2004 providing sanction of long term quarry lease of such minor mineral sources.

The appeal filed by the petitioner was also dismissed vide order under Annexure-6 referring to various Government orders emphasizing that all the sources should be put to auction to get maximum revenue from leasing out of State largesse and to prevent monopoly by any particular private party.

10. Undisputedly, under Chapter-IV of Rules, 2004, minor minerals can be given to a person on lease basis. Chapter-VI specifically deals with minor minerals which shall be sold and disposed of in public auction. Section 35 of the Rules, 2004, which is coming under Chapter-VI, provides for auction of minor minerals specified in Item I(i) of Schedule-III; notwithstanding anything mentioned in the Rules, 2004.

11. Petitioner's specific case is that the item leased out to him is not coming under the minor minerals specified under Item-1(i) of Schedule-III. Therefore, opposite parties are not justified to refuse renewal of the said item which should have been leased out in his favour following procedure as provided under Chapter-IV of the Rules. Vide Circular No.14728 dated 10.04.1997, the Government of Orissa in Revenue Department had decided that all the sources should be put to auction at the first instance and in case of failure of the process the long term lease of the sources was to be resorted to as per Rules, 1990, which was in force at that time. Being aggrieved, Rourkela Quarry Owners Association and other persons of Sundargarh district filed O.J.C. No.6208 of 1999 before this Court challenging the above Circular of the Government. This Court, vide order dated 21.03.2007, while dismissing the said writ petition, upheld the said Government Circular dated 10.04.1997 and *inter alia* passed the following order:-

“Be that as it may, on perusal of the said letter, this Court does not find that it is vitiated by any illegality. Same has been issued in public

interest and in order to augment the Government revenue. Apart from that, it appears that the said letter has been issued in order to ensure transparency in the matter of grant of settlement / lease of the minor minerals. We do not find any illegality in the said letter. Therefore, the said letter is upheld and this Court does not interfere with the same. The writ petition is, therefore, dismissed. The interim order is vacated.”

12. In ***Sachidanand Pandey & Anr. vs. State of West Bengal & Ors., AIR 1987 SC 1109***, the Supreme Court held that while dealing with public property, the executive must make an endeavour to dispose it of by public auction or by inviting tenders, though that is the ordinary rule, may not be an invariable rule. Where there are compelling circumstances necessitating the departure therefrom then the reasons for the departure must be rational and should not be suggestive of discrimination. Appearance of public justice is as important as doing justice. Therefore, in case of dealing with public property, certain percepts and principles have to be observed and public interest is the paramount consideration and when a public property is disposed of, they should try to get the maximum price.

13. In ***Ram & Shyam Co. vs. State of Haryana, AIR 1985 SC 1147***, the Hon’ble Supreme Court held as under:

“A welfare State exists for largest good of the largest number, more so when it proclaims to be the socialist State dedicated to eradication of poverty. All its attempt must be to obtain the best available price while disposing of its property because the greater is the revenue, the welfare activities will get a fillip and shot in the arm. Financial constraints may weaken the tempo of activities. Such an approach serves the larger

public purpose of extending welfare activates primarily for which the Constitution envisages the setting-up of a Welfare State.”

14. In ***Nagar Nigam, Meerut vs. A1 Faheem Meat Exports Pvt. Ltd. & Ors., (2006) 13 SCC 382***, the Hon’ble Supreme Court held as under:

“The law is, thus, clear that ordinarily all contracts by the Government or by an instrumentality of the State should be granted only by public auction or by inviting tenders, after advertising the same in well known newspapers having wide circulation, so that all eligible persons will have an opportunity to bid in the auction, and there is total transparency. In our opinion, this is an essential requirement in a democracy, where the people are supreme, and all official acts must be actuated by the public interest, and should inspire public confidence.”

15. The Hon’ble Supreme Court in ***Aggarwal & Modi Enterprises (P) Ltd. & Anr. Vs. New Delhi Municipal Council***, reported in (2007) 8 SCC 75 held as under:-

“22. The mandate of Section 141(2) is that any immovable property belonging to NDMC is to be sold, leased, licensed or transferred on consideration which is not to be less than the value at which such immovable property could be sold, leased, or transferred in fair competition. The crucial expression is "normal and fair competition". In other words, NDMC is obligated to adopt the procedure by which it can get maximum possible return/consideration for such immovable property. The methodology which can be adopted for receiving maximum consideration in a normal and fair competition would be the public auction which is expected to be fair and transparent. Public auction not only ensures fair price and maximum return it also militates against any allegation of favouritism on the part of the Government authorities while giving grant for disposing of public

property. The courts have accepted public auction as a transparent means of disposal of public property. (See State of UP v. Shiv Charan Sharma, AIR 1981 SC 1722, Sterling Computers Ltd. v. M and N Publications Ltd. (1993 (1) SCC 445), Mahesh Chandra v. Regional Manager, UP Financial Corporation (1993 (2) SCC 279), Pachaivappa's Trust v. Official Trustee of Madras (1994 (1) SCC 475), Chairman and M.D. SIPCOT, v. Contromix Pvt. Ltd. (1995 (4) SCC 595), New India Public School v. HUDA (AIR 1996 SC 3458), State of Kerala v. M. Bhaskaran Pillai (1997 (5) SCC 432) and Haryana Financial Corporation v. Jagdamba Oil Mills (2002 (3) SCC 496).

23. Disposal of public property partakes the character of trust and there is distinct demarcated approach for disposal of public property in contradiction to the disposal of private property i.e. it should be for public purpose and in public interest. Invitation for participation in public auction ensures transparency and it would be free from bias or discrimination and beyond reproach.

16. This Court in ***Jagannath Pradhan Vs. State of Orissa &***

Ors., reported in 93(2002) CLT 369 held as under:-

“As and when the question of granting lease of a permanent source of minor mineral comes for consideration, the only way in which the said source can be settled, is by adopting the procedure laid down under Rule 22 of the Rule and by holding public auction, but then circumstance may occur, as has occurred in the present case, where exigencies may require removal of minor minerals from a temporary source created or come into existence due to act of Nature, like heavy flood, cyclone, earthquake etc. If such an eventuality occurs, the Government is free to invoke the authority conferred upon it under rule 18(3) to meet the emergent situation. However, such power should not be utilized or invoked in ordinary course and can only be exercised in exceptional cases and in situation over which the State has no control. All endeavour should be first made up dispose of minor

minerals only by auction so that the State does not suffer and best advantage is gained.”

17. Law is well settled that no person has any right of renewal of the Government property.

The Hon'ble Supreme Court in the case of ***State of Tamil Nadu Vs. M/s Hind Stone etc. etc.***, reported in AIR 1981 SC 711, held that no one has a vested right to the grant or renewal of a lease and none can claim a vested right to have an application for the grant or renewal of a lease dealt with in a particular way, by applying particular provision.

18. The best method of disposal of public property is by way of public auction and not by private negotiation. The purpose of leasing out different sairats owned by the Government through auction is to get best price. Generation of maximum revenue with a view to secure maximum benefit to the community is in the larger public interest. The petitioner cannot claim any right to enjoy State largesse in perpetuity, which is contrary to the larger public interest. Thus, auction is the best method to grant lease/licence of the State property in order to make the procedure fair, equitable and transparent and to generate maximum revenue for the State. In such process, the petitioner is also getting an opportunity to participate in the auction.

19. In view of the above settled legal position, we don't find any illegality or infirmity in the order dated 01.03.2011 (Annexure-5) passed by

opposite party No.3 and the order dated 30.04.2011 (Annexure-6) passed by opposite party No.2 and the letters issued under Annexures-7,8 and 9 to the extent referred by opposite parties 2 and 3 in refusing to renew the lease granted in favour of the petitioner warranting any interference by this Court.

20. At this juncture, it would be useful to refer to the order dated 27.2.2012 passed by the Hon'ble Supreme Court in the case of **Deepak Kumar etc. V. State of Haryana and others etc.** in I.A. Nos.12-13 of 2011 arising out of Special Leave Petition (C) No.19628-19629 of 2009. In Deepak Kumar's case referred to supra, the Hon'ble Supreme Court referred to the provisions of Mines and Minerals (Development & Regulation) Act, 1957 (hereinafter referred to as 'MMDR Act') and also referred to the Environmental Impact Assessment Notification of 2006 and several instances across the country drawn to the notice of MoEF regarding damage to lakes, riverbeds and groundwater leading to drying up of water beds and causing water scarcity on account of quarry/mining leases and mineral concessions granted under the Mineral Concession Rules framed by the State Governments under Section 15 of the MMDR Act, 1957. MoEF noticed that less attention was given to environmental aspects of mining of minor mineral since the area was small, but it was noticed that the collective impact in a particular area over a period of time might be significant and taking note of those aspects a Core Group was constituted under the Chairmanship of the Secretary (E&F) to look into the

environmental aspects associated with mining of minor minerals, vide its order dated 24.03.2009. The terms of reference to the Group were as under:

- « (i) To consider the environmental aspects of mining of minor minerals (quarrying as well as river beds mining) for their integration into the mining process.
- (ii) Specific safeguard measures required to minimize the likely adverse impacts of mining on environment with specific reference to impact on water bodies as well as groundwater so as to ensure sustainable mining.
- (iii) To evolve model guidelines so as to address mining as well as environmental concerns in a balanced manner for their adoption and implementation by all the mineral producing States »

Reference was also made to the meeting held on 07.07.2009 by the said Core Group which has discussed the impact that may be caused by quarrying/mining of minor minerals on riverbeds and ground waters. It was noticed that individual mines of minor minerals being small in size may have insignificant impact; however, their collective impacts taking into consideration various mines on a regional scale, is significantly adverse. And thereafter following issues were brought up for consideration:

- (i) the need to re-look the definition of minor mineral,
- (ii) minimum size of lease for adopting eco friendly scientific mining practices,
- (iii) period of lease,
- (iv) cluster of mine approach for addressing and implementing EMP in case of small mines,
- (v) depth of mining to minimize adverse impact on hydrological regime,

- (vi) requirement of mine plan for minor minerals, similar to major minerals, and
- (vii) reclamation of mined out area, post mine land use, progressive mine closure plan etc.

The report of Core Group, which is referred to in the order, clearly indicates that portion of mines of minor minerals needs to be subjected to strict regulatory parameters as that of mines of major minerals. It was also felt necessary to have a re-look to the definition of “minor” minerals per se. The necessity of the preparation of “comprehensive mines plan” for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged and the same be suitably incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines.

21. Further, in the Core Committee report, it is recommended that States and Union Territories would see that mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an approved framework of mining plan. It is further observed that a proper framework has also to be evolved on cluster of mining of minor mineral for which there must be a Regional Environmental Management Plan. There are eight recommendations made in the report of the Mineral Concession Rules for mining of minor minerals under Section 15 of MMDR Act, which reads thus:

- (1) Minimum size of mine lease should be 5 ha.
- (2) Minimum period of mine lease should be 5 years.
- (3) A cluster approach to mines should be taken in case of smaller mines leases operating currently.

- (4) Mine plans should be made mandatory for minor minerals as well.
- (5) A separate corpus should be created for reclamation and rehabilitation of mined out areas.
- (6) Hydro-geological reports should be prepared for mining proposed below groundwater table.
- (7) For river bed mining, leases should be granted stretch wise, depth may be restricted to 3m/water level, whichever is less, and safety zones should be worked out.
- (8) The present classification of minerals into major and minor categories should be reexamined by the Ministry of Mines in consultation with the States.

22. The draft rules called The Minor Minerals Conservation and Development Rules, 2010 were also put on the website. Section 15(1A)(i) of the MMDR Act specifies the manner in which rehabilitation of flora and other vegetation, such as trees, shrubs and the like destroyed by reasons of any quarrying or mining operations shall be made in the same area or in any other area once selected by the State Government, either by way of reimbursement of the cost of rehabilitation or otherwise by the persons holding the quarrying or mining lease. The State Government/Union Territories have to give due weightage to the above mentioned recommendations of the MoEF which are made in consultation with all the State Governments and Union Territories. The Model Rules of 2010 issued

by the Ministry of Mines are very vital from the environmental, ecological and bio-diversity point of view.

23. After referring to the above said report and recommendations, the Hon'ble Supreme Court felt the necessity to have an effective framework of mining plan and further made observation after taking note of those technical, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March, 2010 followed by the Model Rules, which is in the spirit of Article 48A, Article 51A(g) read with Article 21 of the Constitution. Having said so, the Hon'ble Supreme Court at paragraph 17 of the judgment directed the States and Union Territories, MoEF and the Ministry of Mines to give effect to the recommendations made by MoEF in its report of March, 2010 and the model guidelines framed by the Ministry of Mines, within a period of six months from the date of that judgment and submit their compliance reports.

24. In view of the above said direction, the State Government is required to reframe the Minor Minerals Concession Rules in the light of the model guidelines framed by the Ministry of Mines, Government of India referred to supra keeping in view various aspects highlighted by the Core Committee and issues raised by it and recommendations made by the Government of India. Further, keeping in view the size of the leased area, the definition of the minor mineral and environmental impact, the Hon'ble Supreme Court has said that lessee may be permitted to quarry the mineral from the sairat source in question at least for a period of five years.

25. Therefore, the application of the petitioner, who is already a lessee may be considered by putting the sairat source to auction. It is open for any category of applicant referred to in Rule 27 including the petitioner to participate in public auction of minor mineral and in case the petitioner is not found to be the highest bidder, but agrees to match with the price at which the bid is knocked, preference shall be given to him even though he is not the highest bidder. We make this observation keeping in view the provision of Rules 27, 35 and 36 of the Rules, 2004 vis-à-vis interest of the State which really means the larger interest of the people of the State. If the sairat is settled in favour of the petitioner then the same may be renewed at least for a period of five years in terms of the observation made by the Hon'ble Supreme Court in its order in the case of **Deepak Kumar etc** (*supra*) subject to payment of consideration money in each succeeding year which shall be fixed by increasing 15% of the consideration money of the immediate preceding year pending framing of Rules.

26. With the above observations and directions, the writ petition is allowed to the extent indicated above.

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B.N.Mahapatra, J.

V. Gopala Gowda, C.J. I agree.

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Chief Justice

