

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 11693 of 2007 (P)

PETITIONER:

K.N.PODUVAL, PROPRIETOR, M/S. ROHINI ENTERPRISES,
INDUSTRIAL DEVELOPMENT AREA, KANJIKODE WEST,
PALAKKAD.

BY ADV. SRI.S.EASWARAN

RESPONDENTS:

1. THE STATE OF KERALA REPRESENTED BY ITS
SECRETARY, INDUSTRIES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM
2. THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE,
PALAKKAD.

ADDL.R3:

V.M.POLYTEX LIMITED, INDUSTRIAL DEVELOPMENT AREA,
KANJIKODE WEST, PALGHAT,
REPRESENTED BY ITS DIRECTOR.
(IS IMPEADED AS PER ORDER DT.13.4.07 ON I.A.No.5592/07)

R1 & R2 BY SR. GOVERNMENT PLEADER SRI SOJAN JAMES
ADDL.R3 BY ADV. SRI.V.G.ARUN
ADD.R3 BY ADV. SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.11693/07

PETITIONER'S EXTS:

- EXT.P1: COPY OF FINAL HIRE PURCHASE AGREEMENT DT.3.7.89 EXECUTED BETWEEN THE PARTIES.
- EXT.P2: COPY OF LETTER DT.4.7.89 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT.P3: COPY OF CERTIFICATE OF REGISTRATION DT.29.3.97 ISSUED BY THE 2ND RESPONDENT.
- EXT.P4: COPY OF INCOME TAX RETURN FILED FOR THE YEAR 1999-2000 BY THE PETITIONER.
- EXT.P5: COPY OF SHOW CAUSE NOTICE DT.27.9.06 ISSUED BY THE 2ND RESPONDENT.
- EXT.P6: COPY OF REPLY LETTER DT.3.10.06 SUBMITTED BY THE PETITIONER.
- EXT.P7: COPY OF ACKNOWLEDGEMENT CARD DT.5.10.06 OF THE 2ND RESPONDENT.
- EXT.P8: COPY OF LETTER DT.12.10.06 ISSUED BY THE 2ND RESPONDENT CALLING FOR PERSONAL HEARING.
- EXT.P9: COPY OF LETTER DT.12.2.07 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT.P10: COPY OF ACKNOWLEDGEMENT CARD DT.13.2.07 OF THE 2ND RESPONDENT.
- EXT.P11: COPY OF COVERING LETTER DT.3.3.2007 ISSUED BY THE 2ND RESPONDENT.
- EXT.P12: COPY OF ORDER DT.4.1.2007 ISSUED BY THE 2ND RESPONDENT.
- EXT.P13: COPY OF LETTER DT.5.4.07 SENT BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT.P14: COPY OF ACKNOWLEDGEMENT CARD DT.7.4.07 SIGNED BY THE 2ND RESPONDENT.
- EXT.P15: COPY OF LETTER DT.10.4.07 SENT BY THE PETITIONER TO THE 2ND RESPONDENT.

RESPONDENTS' EXTS:

- EXT.R3(A): COPY OF PROCEEDINGS NO.1/44/2007/DT.3/2007.
- EXT.R3(B): COPY OF CHALAN RECEIPT FOR ₹10584 DT.19.3.2007.
- EXT.R3(C): COPY OF CHALAN FOR ₹2000 DT.10.1.2007.
- EXT.R3(D): COPY OF AGREEMENT DT.19.3.07.
- EXT.R3(E): COPY OF COVERING LETTER DT.27.3.2007 ENCLOSING THE RECEIPT.
- EXT.R3(F): COPY OF PHOTOGRAPH SHOWING THE CONDITION OF THE PROPERTY AT THE TIME WHEN POSSESSION WAS HANDED OVER TO THIS RESPONDENT.

WPC.11693/07

EXT.R3(G): COPY OF COVERING LETTER NO.PB/VALUATION 1482/07 DT.16.5.07
ALONG WITH THE VALUATION CERTIFICATE.

EXT.R3(H): COPY OF CHALAN DT.22.5.07.

EXT.R3(I): COPY OF PHOTOGRAPHS SHOWING THE WORKS BEING CARRIED ON
IN THE PROPERTY.

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.11693 OF 2007

DATED THIS THE 29th DAY OF MAY, 2015

JUDGMENT

The petitioner who had established an industrial unit in the Industrial Development Area at Puthussery in Palakkad district of the District Industries Centre is before this Court in this Writ Petition seeking a writ of certiorari to quash Ext.P5 show cause notice and Ext.P12 order passed by the second respondent by which the industrial land having an extent of 43 Ares comprised in Sy.No.463/1 and 601 allotted in favour of M/s Rohini Enterprises in which the petitioner is the Proprietor, was ordered to be resumed.

2. By order dated 3.4.2007, this Court directed that the land resumed from the petitioner shall not be allotted to any other person.

3. A reading of the counter affidavit filed on behalf of respondents 1 and 2 would show that since the petitioner has not furnished any proposal for revival of his industrial unit, a proposal was made to re-allot the land in question for setting up an HDPE woven sacks manufacturing industry for which the Director of

Industries and Commerce, Kerala has accorded permission vide letter dated 15.3.2007. The counter affidavit filed on behalf of respondents 1 and 2 would further show that the petitioner was given an opportunity on 17.10.2006 for offering his views before ordering resumption of land. Further, based on the permission granted by the Director of Industries and Commerce, Kerala, the land in question has been re-alloted to the additional third respondent, who occupied the land on 19.3.2007, after executing hire purchase agreement and the said land is now under the ownership and possession of the additional third respondent, who has invested substantial amount to develop the land to suit its project requirements. It is also stated in the counter affidavit that, based on the valuation made by the Executive Engineer, PWD Building Division, Palakkad, the third respondent has also remitted a sum of ₹60,945/- towards the value of the improvements in the property in question. The additional third respondent has also filed a counter affidavit in tune with the stand taken by respondents 1 and 2 in their counter affidavit.

4. The fact that the land in question was resumed and re-

allotted to the third respondent on 19.3.2007, prior to the filing of this Writ Petition is not in dispute. In such circumstances, at this distance of time, Ext.P5 show cause notice and Ext.P12 order calls for no interference at the hands of this Court, in view of the facts disclosed from the pleadings and documents on record. Therefore, the Writ Petition can only be dismissed.

5. The learned counsel for the petitioner would submit that going by Ext.P12, it is ordered that the land cost remitted by the petitioner, if any, shall be refunded after adjusting economic rent for keeping the land idle from the date of taking possession of the land to the date of Ext.P12 order, as per Rules. The learned Government Pleader would point out that allotment of land in industrial area is governed by the Kerala Allotment of Land in Development Areas on Hire Purchase for Industrial Purpose Rules, 1969 and also the Government orders governing the field.

6. If the petitioner is having any subsisting grievance regarding refund of any amount, it is for him to make an appropriate representation before the second respondent within a

period of one month from the date of receipt of a certified copy of this judgment. If any such request made by the petitioner is received within the aforesaid time, it is for the second respondent to consider and pass appropriate orders thereon, strictly in accordance with the Rules and also the Government orders governing the field, as expeditiously as possible, at any rate within a period of three months from the date of receipt of such representation with notice to the petitioner.

In the result, the Writ Petition is dismissed, subject to the above direction.

Sd/-
ANIL K.NARENDRA,
JUDGE

dsn