

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 5094 of 2015 (J)

PETITIONER:

**ABDUL KAREEM,
PROPRIETOR OF MADAVANA INDUSTRIES,
MUPPATHADAM, ALUVA.**

**BY ADVS.SRI.K.MOHANAKANNAN,
SMT.A.R.PRAVITHA,
SMT.D.S.THUSHARA.**

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, THIRUVANANTHAPURAM-695 001.**
- 2. THE DIRECTOR OF INDUSTRIES AND COMMERCE,
VIKAS BHAVAN, THIRUVANANTHAPURAM-695 033.**
- 3. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, PALAKKAD-678 001.**

BY GOVT. PLEADER SRI.BIJU MEENATTOOR.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- TRUE COPY OF THE APPLICATION FILED FOR ALLOTMENT OF PLOTS ON HIRE PURCHASE DTD. 30/11/2010.
- P2:- TRUE COPY OF THE GO(RT)279/2014/ID DTD. 26/02/2014.
- P3:- TRUE COPY OF THE PROCEEDINGS ISSUED BY THE 3RD RESPONDENT DTD. 21/07/2014.
- P4:- TRUE COPY OF THE JUDGMENT DTD. 04/11/2014 IN WP(C).NO.24731/2014.
- P5:- TRUE COPY OF THE ORDER PASSED BY THE 3RD RESPONDENT DTD. 11/12/2014.
- P6:- TRUE COPY OF THE AGREEMENT SUBMITTED BY THE PETITIONER ON 15/12/2014.
- P7:- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DTD. 08/01/2015.
- P8:- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DTD. 09/02/2015.
- P9:- TRUE COPY OF THE APPLICATION FILED UNDER THE RIGHT TO INFORMATION ACT DTD. 22/12/2014 AND THE REPLY FURNISHED BY THE 3RD RESPONDENT DATED 20/01/2015.
- P10:- TRUE COPY OF THE REPLY FURNISHED BY THE 3RD RESPONDENT DTD. 20/01/2015.
- P11:- TRUE COPY OF HTE GO(MS)NO 169/69/ID DTD. 05/04/1969.
- P12:- TRUE COPY OF THE GOVERNMENT ORDER NO.GO(MS)NO.60/2013/ID DTD. 10/06/2013.
- P13:- TRUE COPY OF THE GO(MS)110/2013/ID DTD. 13/09/2013.
- P14. TRUE COPY OF THE ORDER NO.1/5913/2003 DATED 17/12/2014 ISSUED BY THE 3RD RESPONDENT.
- P15. TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT ON 15/12/2014.

RESPONDENT'S EXHIBITS:-

EXT.R3A COPY OF THE ORDER NO.ID 5/8207/14 DATED 11/06/2014.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.5094 of 2015

Dated this the 1st day of October, 2015

JUDGMENT

The petitioner, by Ext.P3 proceedings of the General Manager, District Industries Centre, Palakkad has been allotted with certain plots in the Kanjikode Industrial area. Serial No.53 shown in Ext.P3 is the petitioner. The petitioner has been allotted 36.5 cents of land. The petitioner has approached this Court on account of insistence of the execution of the agreement in a lease deed. The petitioner submits that by virtue of Ext.P11 Rules, the allotment of land in the development areas shall be based on hire purchase and therefore, the respondents cannot insist for execution of lease deed. The petitioner particularly points out to Rule 12 in Ext.P11, which reads as follows:

“The land allotted will be on hire purchase basis. Provided where outright purchase is requested by the allottee it shall be considered by the Director of Industries & Commerce on its merits and he shall decide the matter.”

2. The Government by Ext.P12 order, has decided to hereafter allot the land on lease basis and the tenure of lease will be for a period of 30 years. Therefore, the respondents insisted execution of lease deed.

3. It is to be noted in Ext.P3 proceedings, the allotment made to the petitioner is on provisional basis. The relevant operative portion of Ext.P3 as follows:

“The allotment of land to the promoters of Serial No.1 to 5 will be provisional and on lease basis for a period of 30 years. It will be regularized once the government finalise the lease rules for the allotment of land in DA/DPs. Taluk Surveyor, Palakkad is authorized to provide the respective land sketches to this office.”

It will be regularized only once the Government finalise the lease rules for the allotment of land. Therefore, the petitioner's continuation is only provisional basis till the Government formulate lease rules. In that case, this Court is of the view, the petitioner need to only execute hire purchase agreement. However, once the lease Rules come into force and the petitioner will have to seek regularization of the provisional allotment in terms of lease

rules, necessarily, at that stage, the petitioner will have to execute a lease deed to regularize the allotment. Therefore, so long as the petitioner's continuation on provisional basis and there is no rule as such now, the petitioner shall be permitted to execute the hire purchase agreement and continue on provisional basis. It is made clear that the petitioner will have to execute the lease deed when lease rules come into force to regularize his allotment.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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