

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.8195 of 2012
and M.P.No.1 of 2015

T.KHYOOM BASHA
MANAGING DIRECTOR

[PETITIONER]

PRICIMAT ELECTRONICS PVT. LTD.
L-3 INSTRONICS CAMPUS THIRUVANMIYUR
CHENNAI-41.

Vs

1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY
MICRO SMALL & MEDIUM ENTERPRISES
(G) DEPARTMENT
SECRETARIAT CHENNAI-9.

2 THE INDUSTRIES COMMISSIONER
AND DIRECTOR OF INDUSTRIES AND COMMERCE
NO.36 SOUTH CANAL ROAD
MANDAVELI CHENNAI.

3 THE ADMINISTRATIVE OFFICER
DR.VIKRAM SARABAI INSTRONICS ESTATE
THIRUVANMIYUR CHENNAI-41.

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the Respondents pertaining to the Order of the 1st Respondent in Letter No.10759/G/2010-7 dated 23.11.2011 and quash the same and directing the Respondents herein to issue Sale Certificate to the Petitioner in respect of L-3 Type Factory Unit at Dr.Vikram Sarabai Instronics Estate Thiruvanmiyur Chennai-41 on receipt of the amount as per the Letter in Rc.No.20/A1/1998 dated 04.10.2010 on the file of the 3rd Respondent herein without reference to G.O.Ms.No.108 Micro Small & Medium Enterprises (G) Department dated 20.10.2010.

For petitioner : Mr.K.Doraisami, Senior Counsel
for M/s Muthumani Doraisami

For respondents: Mr.M.S.Ramesh, AGP

O R D E R

Heard Mr.Doraisami, learned Senior counsel appearing for the petitioner and Mr.M.S.Ramesh, learned Additional Government Pleader, for the respondents.

2. This writ petition has been filed under Article 226 of the Constitution of India challenging the order of the 1st respondent in Letter No.10759/G/2010-7 dated 23.11.2011 and to direct the respondents to issue Sale Certificate to the Petitioner in respect of L-3 Type Factory Unit at Dr.Vikram Sarabai Instronics Estate, Thiruvanniyur, Chennai-41, on receipt of the amount as per the Letter in Rc.No.20/A1/1998 dated 04.10.2010 on the file of the 3rd respondent without reference to G.O.Ms.No.108, Micro Small & Medium Enterprises (G) Department dated 20.10.2010.

3. According to the learned Senior Counsel appearing for the petitioner, the rental shed unit No.L3 in Dr. V.S.I. Estate, Thiruvanniyur, Chennai 41 was allotted to the petitioner to set up industry for manufacturing of Printed Circuit Boards under Rental Scheme in the year 1973. Based on G.O.Ms.No.56, Small Industries (EIV) Department, dated 21.06.2005, the petitioner had been permitted for conversion from Rental into Hire Purchase scheme and final cost of Rs.6,85,900/- was fixed and communicated vide letter dated 11.11.2005 of the 2nd respondent. Aggrieved over the same, on 02.12.2005, the petitioner sent a representation to the 1st respondent seeking him to furnish the working sheet for arriving at the final costs, followed by several objections right from 2006 to 2007. Thereafter, in order to settle the matter amicably, the petitioner agreed for the final cost fixed by the 2nd respondent in his letter dated 11.11.2005 along with interest vide his representations dated 17.06.2009 and 17.02.2010. Though the 3rd respondent has accepted the same, instructions were given to pay the final cost along with interest immediately and also to keep the unit functioning for the issuance of the sale certificate. To show the bonafide of the petitioner, immediately, thereafter, the petitioner sent a cheque for Rs.25,000/- along with his representation dated 26.10.2010 seeking a month's time to pay the final cost along with interest thereon.

4. According to the learned Senior Counsel for the petitioner, when that being the position, the 3rd respondent has refused to accept the said advance amount of Rs.25,000/- vide proceedings dated 02.11.2010 on the ground of non functioning of the Unit and as per G.O.Ms.No.108 dated 20.10.2010, no sale certificate would be issued for the sick unit, which is not functioning. Thereafter, the petitioner sent several representations dated 24.11.2010, 02.12.2010, 16.12.2010, 10.01.2011 and 27.01.2011, explaining in detail as to why the

Industrial Unit became sick and the steps taken by them to revive the same. It is the case of the petitioner that had the conveyance deed been executed as per the request, the Unit would have been functioning continuously without break. However, without considering the representations, the 1st respondent has passed the impugned order dated 23.11.2011 concluding that the Sale Certificate would not be issued.

5. Citing non operation as well as closing of the Unit, the execution of sale deed for Unit L-3 Type Factory Unit at Dr.Vikram Sarabai Instronics Estate, Thiruvannamiyur, Chennai-41 was denied by the impugned order, against which, the petitioner has approached this Court.

6. When the writ petition came up for admission, while admitting the writ petition, this Court has granted an order of interim injunction vide order dated 29.03.2012 and by order dated 20.03.2015, by dismissing the miscellaneous petition filed for vacating the interim order, this Court has made the interim order absolute. Thereafter, by way of filing a miscellaneous petition in M.P.No.1 of 2015, the petitioner has sought a direction to the respondents to receive the demand draft for a sum of Rs.16,70,000/- and to issue sale deed at the earliest. When the matter came up for hearing, this Court directed the learned Additional Government Pleader to get the details of amount required to be paid by the petitioner as shed cost and any terms and conditions required to be complied by the petitioner, since the petitioner had run the industry prior to fixation of final cost and having demand draft for the aforesaid sum. Accordingly, the learned Additional Government Pleader, when the matter was taken up for hearing on 16.11.2015 has produced a communication of the Principal Secretary to Government dated 05.11.2015 issued in Lr.No.2542/C/2012-10, imposing certain conditions which read as follows:-

"...6. In view of the above, I am to state that the request of Industries Commissioner and Director of Industries and Commerce may be considered and on the direction of the Hon'ble High Court and based on the advice of the Additional Government Pleader, the following is hereby furnished for disposal of writ petition as well as to sustain the purpose of allotment:-

"1) The G.O.Ms.No.56 Small Industries (EIV) Department dated 21.06.2005 issued already for this petitioner is allowed to exist as the cost has already been fixed as per G.O.ms.No.56 Small Industries (EIV) Department dated 21.06.2005 and communicated in the year 2005. But the petitioner shall

commence the production within 3 months and shall submit the proof for continuous running status for at least three months to accept the payment of final cost.

2) The amount towards interest and penal interest shall be informed to the Hon'ble High Court by the Deputy Director (E&E), Administrative Office, Dr.VSI Estate, Chennai 41 in addition to the final cost already fixed and communicated. The other charges applicable to the petitioner shall also be informed.

3) The Department shall execute the sale deed to the petitioner's shed only after complying the terms and conditions satisfactorily as specified in G.O.Ms.No.56 Small Industries (EIV) Department dated 21.06.2005.

4) It is prayed that the Hon'ble High Court may issue a suitable order to resume the shed from the petitioner if the petitioner has failed to comply the above conditions within six months from the date of issue of order, since the department is unable to resume the shed for non-functioning of industrial activities due to this writ petition in the Hon'ble High Court".

The respondent department has also informed the amount towards interest and penal interest in addition to the final cost of the land and building by way of communication dated 05.11.2015 in R.C.No.20/A1/98 by the Deputy Director (E&E), Dr.V.S.I. Estate, Thiruvannamiyur, Chennai, wherein the department has directed the petitioner to pay a total sum of Rs.27,65,597/- which is inclusive of the cost of land and building and also interest at 14.5% till 30.11.2015. The same has also been produced before this Court by the learned Additional Government Pleader. Since the learned Senior Counsel for the petitioner sought time to verify the same, the matter was adjourned.

7. Today, when the matter is taken up for hearing, the learned Senior Counsel appearing for the petitioner has agreed for said conditions imposed and he submits that as directed, the payment shall be made by the petitioner on or before 30.11.2015 and he further seeks indulgence of this Court to fix an outer time limit for execution of sale deed from the date of such payment.

8. The learned Additional Government Pleader would submit that as agreed, if the conditions are complied with, necessary sale deed will be executed in favour of the petitioner and he also urged that in case of any default on the part of the petitioner, liberty may be given to the respondents to proceed in accordance with law.

9. In view of the above, recording the submissions made by the learned counsel on either side, this writ petition is disposed of by issuing the following directions:-

(i) As informed by the Deputy Director (E&E), Dr.V.S.I. Estate, Thiruvannamiyur, Chennai, dated 05.11.2015 cited supra, pursuant to the letter of the Principal Secretary/ Industries Commissioner and Director of Industries and Commerce dated 05.11.2015, the petitioner is directed to pay a sum of Rs.27,65,597/- on or before 30.11.2015 and on such payment being made, necessary deed be executed and handed over to the petitioner, not later than 90 days from the date of payment.

(ii) As provided under clause (iv) of para 6 of the letter of the Principal Secretary/ Industries Commissioner and Director of Industries and Commerce dated 05.11.2015 cited supra, if the petitioner fails to comply with the conditions imposed within six months from the date of issue of order, by commencing the business operations in the shed allotted to the petitioner, it is open to the respondents to proceed in accordance with law".

No costs. Connected miscellaneous petition is closed.

rg

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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(G) DEPARTMENT
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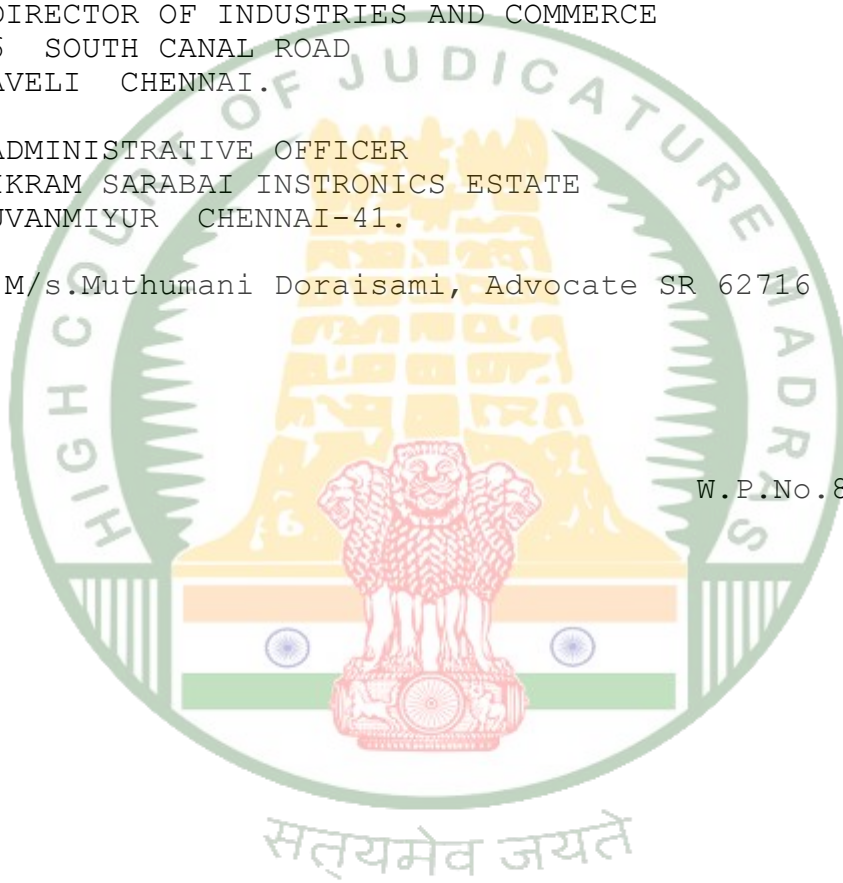
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+ 1 cc to M/s.Muthumani Doraisami, Advocate SR 62716

skv(co)
prk20/11

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