

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2016

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.23407 of 2014
and M.P.No.1 of 2014

A.Moorthy [Petitioner]
S/o.Arumugam
Carrying on business as Amma Canteen
S.F.No.168 169 Sidco Industrial Estate
Phase No.IV V & VI
Sipcot Zuzuvadi Village
Hosur Tk. Krishnagiri Dt.

Vs

- 1 Tamilnadu Small Industries
Development Corpn. Ltd.
rep. by its Chairman & Managing Director
reg. O/o. at Thiru.Vi.Ka. Industrial Estate
Guindy, Chennai-32
- 2 Tamilnadu Small Industries
Development Corporation Ltd.
(Govt. of Tamilnadu Undertaking)
rep. by its Branch Manager
SIDCO Industrial Estate Hosur
- 3 The Small Industries Assn.
C-29 SIDCO Industrial Estate Hosur 635 126
- 4 Hosur Small and Tiny
Industries Assn. (HOSTIA)
Rep. by its President
No.20-21 Sipcot Shopping Complex
Opp. LAL Hosur 635126

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the letter made in Rc. No.24/C/14 dated 21.3.2014 of the 2nd respondent quash the same and consequently direct the respondents 1 and 2 herein to consider allotment of the plot to petitioner where he is running the canteen at S.F.No.168 169 Sidco Industrial Estate Phase No.IV V & VI SIPCOT Zuzuvadi Village Hosur Taluk Krishnagiri District.

For petitioner : Mr.S.V.Jayaraman, Senior Counsel
for Mr.T.Dhanaskaran
For respondents : Mr.Abdul Saleem (R1 & R2)
Mr.R.Prabhakaran (R4)

ORDER

This writ petition is filed under Article 226 of the Constitution of India, challenging the order of the 2nd respondent dated 21.3.2014 and consequently direct the respondents 1 and 2 herein to consider allotment of the plot to the petitioner, where he is running the canteen at S.F.No.168, 169 Sidco Industrial Estate, Phase No.IV V & VI SIPCOT Zuzuvadi Village, Hosur Taluk, Krishnagiri District.

2. According to the learned Senior Counsel for the petitioner, the petitioner is running a canteen in the place in question with the permission of the respondents 1 and 2 and on 22.09.1986, a requisition

letter was submitted along with surrounding industrial workers and others for allotting the said place for running a big canteen to the 2nd respondent. Thereafter, on 22.11.1990, the said place was allotted to the 3rd respondent with certain conditions. On accepting the terms and conditions imposed, by receiving the allotment order, the 3rd respondent started to evict the petitioner from that place by adopting methods of force. Thereafter, the petitioner submitted a requisition letter to the 3rd respondent on 11.02.1991 by paying Rs.25,000/- for advance and Rs.50,000/- for construction a canteen building in that place for continuing the business and the same was accepted by the 3rd respondent and the eviction works were stopped and construction was permitted. It is pertinent to mention that the said place was leased out to the petitioner for a period of 5 years on 22.03.1991. Further, according to the learned Senior Counsel for the petitioner, while the petitioner was running the canteen after completing the construction till date, after paying all the charges and after collecting a sum of Rs.10,00,000/- for the 3rd respondent association purposes from 1986 to 2014, the 3rd respondent association was changed as 4th respondent association and hence the 4th respondent had approached the respondents 1 and 2 for approval of name transfer and after obtaining the same, they approached for execution of sale deed in favour of them by claiming the allotment

order dated 29.11.1990. At this juncture, the learned Senior Counsel submitted that the 4th respondent, obtained the sale deed on 24.08.2012, through the allotment order passed on 29.11.1990 in favour of the 3rd respondent, after a long gap of 13 years, without paying the sale consideration and by playing fraudulent name transfer of the 3rd respondent. It is his contention that on 20.12.2013, the 4th respondent had sent a communication stating that their association had decided to put up a permanent building for office of the association and therefore, called upon to vacate and hand over possession, by also claiming rental arrears. That apart, according to the learned Senior Counsel, when the petitioner approached the 1st respondent requesting them to allot the said plot to the petitioner, a communication dated 21.03.2014 was received from the 2nd respondent to the effect that the said place have already been allotted to the 4th respondent and a sale deed has also been executed and therefore, the request sought for cannot be considered. Aggrieved over the same, the petitioner is before this Court.

3. Heard Mr.S.V.Jayaraman, learned Senior Counsel appearing for the petitioner, Mr.Abdul Saleem, learned counsel appearing for the 1st and 2nd respondents and Mr.R.Prabhakaran, learned counsel appearing for the 4th respondent.

4. Originally, the place in question was allotted in favour of the 4th respondent. The petitioner is actually a tenant, running a canteen in the 4th respondent's place and when he approached the authorities for registration of the sale deed with regard to the same property in their name, that was negated by proceedings dated 21.03.2014 by saying that the sale deed was already executed in favour of the 4th respondent. According to the learned Senior Counsel for the petitioner, though the writ petition is filed challenging the said proceedings dated 21.03.2014, questioning the allotment made to the 4th respondent, the petitioner will proceed in accordance with law, but, at the same time, he should not be evicted, except under due process of law.

5. The learned counsel appearing for the 4th respondent submitted that the 4th respondent, being the owner of the property has only issued notice to vacate the premises, since the property is required for their own business activities and if the petitioner is not complying with the notice issued, they will proceed in accordance with law for evicting the petitioner.

6. The crux of the issue is only issuance of eviction notice, for

which the petitioner can very well submit their reply meeting out all the points raised. It is always open to the 4th respondent to proceed with regard to eviction as well as taking possession of the property occupied by the writ petitioner in the manner known to law.

With these observations, the writ petition is disposed of. No costs.
Connected miscellaneous petition is closed.

04.01.2016

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R. MAHADEVAN, J.

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