IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.813 and 814 of 2015

W.A.No.813 of 2015

1.Tamil Nadu Small Industries Development Corporation,
rep. By its Managing Director,
SIDCO, Thiru.Vi.Ka Industrial Estate,
Guindy,
Chennai 32.

2.The Branch Manager,
Tamil Nadu Small Industries Development Corporation,
Five Roads, Salem 4. ... Appellants/Respondents 2 & 4

versus

1.S.Parvathi ..Respondent/Petitioner in W.P.29883/2014.

2.The Government of Tamil Nadu,
rep. By its Secretary, Revenue Department,
Fort St.George, Chennai 9.

3.The District Collector,
Salem District ..Respondents/Respondents 1 & 3

W.A.No.814 of 2015

1.Tamil Nadu Small Industries Development Corporation,
rep. By its Managing Director,
SIDCO, Thiru.Vi.Ka Industrial Estate,
Guindy,
Chennai 32.

2.The Branch Manager,
Tamil Nadu Small Industries Development Corporation,
Five Roads, Salem 4. ... Appellant/Respondents 2 & 4

versus

1.M/s.Rank Mark,
rep. By its Managing Partner,
Plot No.155, Women Industrial Park,
Karuppur, Omalur Taluk,
Salem District. ..Respondent/Petitioner in W.P.29997/2014

2.The Government of Tamil Nadu,
rep. By its Secretary, Revenue Department,
Fort St.George, Chennai 9.

3.The District Collector,
Salem District ... Respondents/Respondents 1 & 3

Appeals filed against the order passed by this Court dated 22.01.2015 passed in W.P.Nos.29883 and 29997 of 2014.

Prayer in W.P.29883/2014:
Writ petition filed under Article 226 of the constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records from the 1st respoondent relating to the issue of the G.O.Ms.No. 172 Revenue (NiMu7(i) Department dated 11.06.2013 abd fron the 4th respondent relating to the issue of Rc.No.524/C/2001 dated 24.03.2014 and quash the same and direct the respondents to fix the cost of the industrial plots in Women Industrial Park at Karuppur Village Omalur Taluk afresh only by taking 50% of the market value of the lands as obtained during the year already adopted by the respondents 2 to 4 to fix the cost of plots in the 2nd respondent proceedings in Rc. NO.5749 dated 30.3.2005 and to furnish the complete working details of the cost of plot so fixed to the petitioner and thereafter to demand the additional amount from or to repay the amount to the petitioner, if the amount already paid is lesser or higher than the cost so fixed, as the case maybe.

W.P.29997/2014:
Calling for the records from the first respondent relating to the issue of the G.O.Ms.No.172 Revenue (Nimu7(i)) Department dated 11.06.2013 and from the fourth respondent relating to the issue of two letters in same No. namely Rc.No. 524/C/2001 dated 24.03.2014 respectively in respect of Plot Nos.155 and 156 in Women Industrial Park at Karuppur Village Omalur Taluk Salem District and quash the same and all consequential orders issued thereunder in so far as the petitioner is concerned and consequently to direct the respondents to fix the cost of the industrial plots afresh only by taking 50% of the market value of the lands as obtained during the year 2001-02 and to furnish complete working details of the cost of plot so fixed to the

petitioner and thereafter to demand the additional amount from or to repay the excess amount already paid to the petitioner, as the case may be and further to direct the respondents to execute in favour of the petitioner a sale deed conveying the title of the said plots bearing Nos 155 & 156 having an extent of 74.28 cents and 26.44 cents respectively in Women Industrial Park at Karuppur, Omalur Taluk Salem District taking the cost of the plots fixed as aforesaid as market value and by exemption the stamp duty for the same.

For appellant : Mr.S.Saravanan

For Respondents : Mr.N.Subramaniyan, for R-1
Mr.V.Anandhamoorthy, A.G.P.
For respondents 2 and 3

COMMON JUDGMENT
(made by K.K.SASIDHARAN, J.)

The appellants allotted a plot to the respondents on out right sale basis, indicating that cost is subject to revision in case of increase in the award amount to be paid to the land owners, from whom the land was acquired by the Government. The appellants by notice dated 24 March 2014, called upon the respondents to pay the remaining amount, on the ground that the Government has fixed the land cost taking into account the market value as on 11 June 2013. Since the respondents were not liable to pay the market rate on which the land was actually allotted by the Government, Writ Petitions were filed challenging the demand. The learned Single Judge allowed the Writ Petitions and quashed the demand. Feeling aggrieved, the appellants have come up with these two intra court appeals.

2. The learned counsel for the appellants contended that there was a condition that the land cost was fixed tentatively and the balance amount has to be paid later, taking into account the revised land value payable to the claimants. According to the learned counsel, it was only for claiming the balance amount, demand was made. The learned Single Judge was therefore not correct in quashing the demand notice.

3. We have also heard the learned counsel for the respondents.

4. The appellants allotted developed plot bearing No.118, to the first respondent in W.A.Nos.813 of 2015. Similarly, plot bearing No.156 was allotted to the first respondent in W.A.Nos.814 of 2015.

5. The agreement executed between Tamil Nadu Small Industries Development Corporation (hereinafter referred to as

"SIDCO") and the allottees contain a provision that the cost is only tentative and they have to pay the land cost to be fixed by the Government taking into account the claim made by the land owners from whom the land was acquired. SIDCO had neither in the allotment order nor in the agreement indicated that they are yet to get allotment from the Government and the land cost prevailing as on the date of such actual allotment should be paid by the allottees. SIDCO, at all point of time, acted as if the plot has already been allotted by the Government. The liability of the allottee is only to pay the remaining cost, taking into account the land cost fixed by the Government, which is the amount payable to the land owners, from whom the land was acquired. There is no liability on the part of the allottees to pay the market rate as on the date on which the land was actually handed over to SIDCO, which was long after the order of allotment to the first respondent.

6. It is the case of SIDCO before this Court that as on the date on which the developed plot was allotted to the allottees, the land was not actually allotted to them by the Government. This fact was never disclosed to the allottees. Even in the agreement executed by SIDCO there is no mention about the fact that the land is yet to be given officially by the Government to SIDCO.

7. SIDCO got allotment from the Government eight years after the allotment made to the first respondent. The allottees are therefore not liable to pay the revised cost to SIDCO. The agreement entered into by SIDCO with the Government would not bind the allottees, in view of the fact that the allotments were made in 2005. The demand proceeds as if the Government fixed the cost for allotment taking into account the then market rate. This aspect was considered by the learned Single Judge and the Writ Petitions were rightly allowed. We do not find any ground made out by the appellants to take a different view in the matter.

8. In the upshot, we dismiss the intra court appeals. No costs. Consequently, M.P.Nos.1 and 2 of 2015 are closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary,
  Revenue Department,
  Government of Tamil Nadu,
  Fort St.George, Chennai 9.

2.The District Collector,
  Salem District

+2 Ccs to Ms. Abdul Saleem, Advocate sr 75350.

W.A.Nos.813 and 814 of 2015

BR(CO)
SP(27/11/2017)