

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.646 of 2014 and
M.P.No.1 of 2014

M/s.ABI Safety Wears Industries,
Represented by its Proprietor
T.Damodaran

No.8/H-7, Mahalakshmi Nagar,
Phase I, 1st Main, ASTC,
New HUDCO, Hosur - 635 109.

...Appellant

Vs

1.The Deputy General Manager (IE-II)
SIDCO Industrial Estate,
Guindy, Chennai - 600 032.

2.Tamil Nadu Small Industries Department
Corporation Limited,
Represented by its Branch Manager,
SIDCO Industrial Estate,
Gandhi Nagar, Vellore -6.

3.The Estate Officer,
Office of the Estate Officer,
SIDCO Industrial Estate,
Vellore -6.

...Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.10490 of 2014 dated
10.04.2014.

WP.No.10490/2014 Prayer: Writ petition filed under Article 226
of the Constitution of India praying this Court to issue a
writ of Certiorari to call for the records of this 1st
respondent in his proceedings in RC.No.9156/IE-7/2011 dated
14.03.2013 and to quash the Same.

For Appellant : Ms.G.Sumithra

For R1 and R3 : No appearance

For R2 : Mr.M.Vijaymehathan

J U D G M E N T

K.K. SASIDHARAN, J.

The allotment of a developed industrial plot was cancelled by the Tamil Nadu Small Industries Department Corporation Limited (hereinafter referred to as "SIDCO") on the ground that the appellant failed to put up the building for the industry within the outer time limit fixed in the order of allotment. The order cancelling the allotment was upheld by the learned single Judge in the writ petition in W.P.No.10490 of 2014. Feeling aggrieved, the appellant has come up with this intra court appeal.

2. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the second respondent.

3. The SIDCO developed an industrial estate at Vinnamangalam for setting up small scale industries. The SIDCO allotted a developed plot to the appellant by proceedings dated 23 October, 2008. While allotting the plot, the SIDCO made it clear that construction should commence within a period of six months and industry should be set up within a period of two years.

4. Since the appellant failed to commence the construction by utilising the plot, SIDCO issued a notice dated 21 August, 2012, calling upon the allottee to show cause as to why allotment should not be cancelled. Since the appellant failed to give a reply within a period of 30 days, SIDCO passed the cancellation order dated 14 March 2013 on the ground of violation of conditions. It was the said order which was challenged before the writ court.

5. The matter is in the realm of contract. The appellant made an application for allotment of a developed plot. The SIDCO pursuant to the said application allotted the plot subject to certain conditions. The condition regarding commencement of construction and establishment of industry within the prescribed period was an essential condition. There is no dispute that the appellant violated the said condition by not commencing the construction within a period of six months. The SIDCO was therefore perfectly correct in cancelling the allotment.

6. The judicial review is essentially against the decision making process. It is not against the decision as such. The impugned order of cancellation was issued by SIDCO after issuing notice to the appellant. The appellant miserably failed to plead and prove before SIDCO that on account of certain reasons beyond control, construction activity was delayed. Such being the factual position, there is no

illegality committed by SIDCO in issuing the order cancelling the allotment made to the appellant.

7. We are informed by the learned Standing Counsel for SIDCO that applications would be invited from industrialists for allotting the plot taken back from the appellant by adopting a transparent method.

8. The learned counsel for the appellant submitted that the appellant should also be permitted to take part in the auction for allotment of plot.

9. We direct the SIDCO to issue advertisement calling for applications for allotment of the developed plot originally allotted to the appellant. The appellant should also be given notice of the auction. The appellant should be permitted to take part in the auction along with others. In case, everything is found equal, allotment should be given to the appellant taking into account his earlier allotment.

10. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

svki

To

1.The Deputy General Manager (IE-II)
SIDCO Industrial Estate,
Guindy, Chennai - 600 032.

2.Tamil Nadu Small Industries Department
Corporation Limited,
Represented by its Branch Manager,
SIDCO Industrial Estate,
Gandhi Nagar, Vellore -6.

3.The Estate Officer,
Office of the Estate Officer,
SIDCO Industrial Estate,
Vellore -6.

+1cc to Mr.Abdul Saleem, Advocate SR.No.79869
+1cc to Mr.G.Sumitra, Advocate SR.No.79377

W.A No.646 of 2014

GMR (CO)

<https://hcservices.ecourts.gov.in/hcservices/>

GN(29/11/2017)