

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.09.2017

CORAM

The Honourable MR. JUSTICE M.DURAI SWAMY

W.P.No.23569 of 2017
and W.M.P.No.24717 of 2017

Sree Rengaraj Ispat Industries (P) Ltd.,
Plot No.MM1,2 and 5,
SIPCOT Industrial Growth Centre
Perundurai 638 052,
Erode District
represented by its Authorized Signatory
D.Udhayakumar

[Petitioner]

Vs

1. State Industries Promotion Corporation
Tamil Nadu Ltd.,
rep. By its Managing Director,
No.19-A, Rukmani Laksimipathi Road,
Egmore, Chennai 3.
2. The Project Officer,
SIPCOT Industrial Growth Centre
Perundurai,
Erode District 638 052.

[Respondents]

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 relating to the impugned notice dated 19.06.2017 made in DII/SIGCP/Rengaraj/70C/2017 dated 19.06.2017, issued by the 1st respondent and quash the same, as illegal, arbitrary, without jurisdiction and consequently forbear the respondents from demanding/levying any charges from the petitioner which are contrary to the lease agreement entered between the petitioner and 1st respondent dated 04.06.2003 and 01.02.2008.

For Petitioner : Mr.S.Pandiyaraj
For Respondents : Mrs.Sudarsana Sundar,

ORDER

Heard the learned counsel for the petitioner and Mrs.Sudarsana Sundar, learned Standing Counsel for the respondents and perused the materials available on record.

2. The petitioner has filed the above writ petition to issue a writs of certiorarified mandamus to call for the records relating to the impugned notice dated 19.06.2017 issued by the 1st respondent and to quash the same and consequently forbear the respondents from demanding/levying any charges from them, which are contrary to the lease agreement entered between the petitioner and 1st respondent dated 04.06.2003 and 01.02.2008.

3. It is the case of the petitioner that the 1st respondent allotted Plot No.MM1 to an extent of 20 acres vide their allotment letter dated 10.02.2003 and Plot Nos.MM2(W), MM2(E) and MM5 measuring an extent of 42.57 acres at SIPCOT Industrial Growth Centre, Perundurai, Erode District for setting up a sponge iron unit. After receiving the cost of the land, the 1st respondent has also executed a registered lease agreement. In the allotment order dated 19.10.2007, the 1st respondent indicated the cost of the land as Rs.12 lakhs per acre, a sum of Rs.2,40,000/- towards plot deposit and a sum of Rs.9,60,000/- towards development charges, in all, a sum of Rs.508.34 lakhs was demanded by the respondents. Subsequent to the registration of the lease deed, the petitioner also took possession of the land and put up construction and commenced the production as per the terms and conditions stipulated in the allotment order. The mandatory requirement under the Factories Act, 1948 is that whenever a factory was constructed, it should be attached with a rest house for the workers to take rest during the short time intervals and during the period of changeover of shift, particularly several works from rural villages are working in the factory beyond that, the rest room will not be used for any other purpose. The 1st respondent, misconstrued the rest room as if it is a Dormitory building constructed by the petitioner and consequently made a claim of a sum of Rs.3,96,069/- through his notice dated 18.02.2015 with respect to the Plot No.MM1 by seeking to regularize that alleged dormitory building on payment of the aforesaid amount. In the said notice, the 1st respondent has erroneously claimed a sum of Rs.22,52,250/- by adjusting the earlier amount paid at the time of allotment of the entire land. The petitioner, on receipt of the demand, submitted his reply, questioning the jurisdiction of the 1st respondent. The 1st respondent, without giving an opportunity to the petitioner, has passed the impugned order.

4. According to the petitioner, the 1st respondent, without jurisdiction has passed the order and directed them to remit the amount within 90 days, failing which, the petitioner's water supply will be disconnected. Further, according to the petitioner's, the 1st respondent has issued the impugned notice dated 19.06.2017, threatening to cancel the allotment and recover the plot.

5. The learned counsel appearing for the petitioner submitted that in similar circumstances this Court in W.P.No.15260 of 2017 dated 20.07.2017 had set aside the impugned notice and remanded the matter to the 1st respondent for fresh consideration.

6. Mrs.Sudarsana Sundar, learned Standing Counsel for the respondents submitted that the ratio laid down by this Court in W.P.No.15260 of 2017 applies to the present case.

7. At this juncture, it is useful to extract below the operative portion of the order dated 20.07.2017 passed in W.P.No.15260 of 2017:-

"7. In the light of the above reasons, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the first respondent for fresh consideration. The first respondent shall authorize an inspection to be conducted of the said dormitory area after notice to the petitioner and after such inspection, afford an opportunity of personal hearing to the authorized representative of the petitioner, consider their representation dated 07.03.2015 and any other additional representation that they may give and taking note of their submissions, pass a speaking order on merits and in accordance with law. Till the above exercise is completed, the respondents cannot disconnect the water supply nor issue any demand on the petitioner. No costs. WMP.No.16555 of 2017 is closed".

8. In view of the submissions made by the learned counsel on either side, following the order passed in W.P.No.15260 of 2017 dated 20.07.2017, the impugned notice dated 19.06.2017 issued by the 1st respondent is set aside. The writ petition is allowed and the matter is remanded to the 1st respondent for fresh consideration. The 1st respondent shall authorize an inspection to be conducted of the said dormitory area after notice to the petitioner and after such inspection, afford an

opportunity of personal hearing to the authorized representative of the petitioner, consider their representations dated 16.03.2015 and 18.01.2017 and any other additional representation that they may give and taking note of their submissions, pass a speaking order on merits and in accordance with law. Till the above exercise is completed, the respondents are directed not to disconnect the water supply nor issue any demand on the petitioner. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

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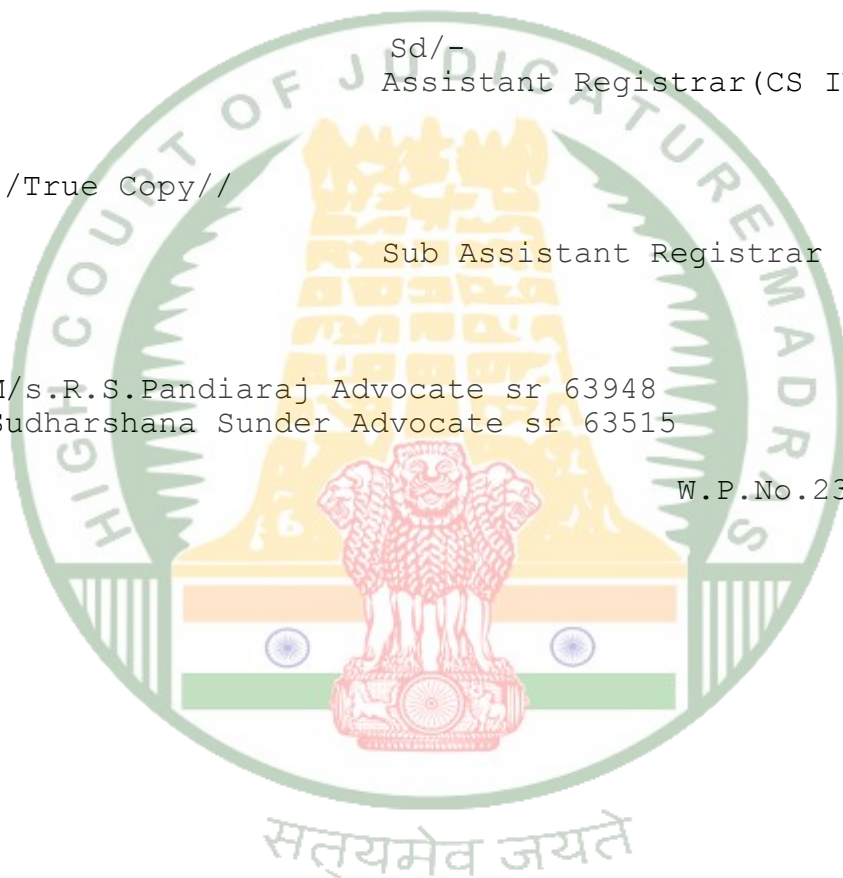
Sub Assistant Registrar

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+1 cc to M/s.R.S.Pandiaraj Advocate sr 63948
+1 cc to Sudharshana Sunder Advocate sr 63515

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