

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.1942 OF 2012

- 1.The Chairman and Managing Director
State Industries Promotion Corporation of
Tamil Nadu Ltd.,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.
- 2.The Senior Project Manager,
SIPCOT Information Technology Park,
Padur Post, Siruseri - 603 103,
Kancheepuram District.Appellants

Vs

M/s.Irrigation Products International
Pvt. Ltd., Rep. by its Managing Director
Mr.Ravi Kumar Garyali,
No.4/112, II Floor, East Coast Road,
Neelangarai, Chennai - 600 041.Respondent

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.24903 of 2008 dated 18.11.2011.

W.P.No.24903 of 2008:-

Praying to call for the records in pursuant to the impugned
order passed by the 1st respondent in proceeding
NO.D-11.SITP/15/IPIPL/07 dated 20.04.2007 and proceeding
No.D-11 /SITP/15/IPIPL/07 dated 11.09.2008 and quash the same.

For Appellants : Ms.Sudarsana Sundar

For Respondent : Mr.R.Prem Narayan

J U D G M E N T

K.K. SASIDHARAN, J.

The order allotting a plot in the industrial estate to the
respondent was cancelled on the ground that the allottee failed
to commence the construction within a period of six months. The

request made by the respondent for revoking the order of cancellation was negatived. The writ petition filed by the respondent before the writ court was allowed. Feeling aggrieved, the State Industries Promotion Corporation of Tamil Nadu Limited (hereinafter referred to as "SIPCOT") is before this Court.

2. The SIPCOT developed an Information Technology Park at Siruseri. The SIPCOT pursuant to the application submitted by the respondent allotted a plot vide proceedings dated 29 April, 2005. The respondent took possession of the plot on 30 August, 2005. There was a condition annexed to the order of allotment, which mandates for commencement of construction within a period of six months. Since no such construction was commenced, the SIPCOT issued a show cause notice on 14 June, 2006. The respondent, without any valid explanation for the failure to commence the construction made a request to grant 24 months time to comply with the terms and conditions of allotment. Since the explanation was not satisfactory and the mandatory condition was not complied with, the SIPCOT cancelled the allotment by order dated 20 April, 2007. The request made by the respondent for revoking the order of cancellation was negatived.

3. When a challenge was made to the proceedings issued by the SIPCOT, the learned single Judge allowed the writ petition on the ground that there was a proposal mooted by the respondent for setting up a unit for Computer software development for running sprinkler irrigation systems, instead of using it for the purpose for which it was allotted, and as such permission ought to have been given.

4. We have heard the learned Standing Counsel for the appellants. We have also heard the learned counsel for the respondent.

5. The order allotting a developed plot to the respondent contained a mandatory condition that the construction of the industry should commence within a period of six months and it should be completed within a period of 24 months from the date of allotment. Admittedly, no such construction was commenced by the respondent within a period of six months. The so called letter given by the respondent for establishing unit of a different nature would not give a fresh six months period for commencement of construction. The SIPCOT rejected the request for changing the nature of business on the ground that the industrial estate was established for the IT Sector. The SIPCOT was well within its powers to reject the request given for a different purpose.

6. The matter is in the realm of contract. The respondent

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

7. 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 SIPCOT after issuing notice to the respondent. The respondent miserably failed to plead and prove before SIPCOT that on account of certain reasons beyond his control, construction activity was delayed. Such being the factual position, there is no illegality committed by SIPCOT in issuing an order cancelling the allotment made to the respondent.

8. The learned single Judge without reference to the terms and conditions of contract allowed the writ petition.

9. We are informed by the learned Standing Counsel for SIPCOT that applications would be invited from industrialists for allotting the plot originally allotted to the respondent by adopting a transparent method.

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

11. We direct the SIPCOT to issue advertisement calling for applications for allotment of the developed plot in question. The respondent should also be given notice of the auction. The respondent should be permitted to take part in the auction along with others. In case, everything is found equal, allotment should be given to the respondent taking into account the earlier allotment.

12. The intra court appeal is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

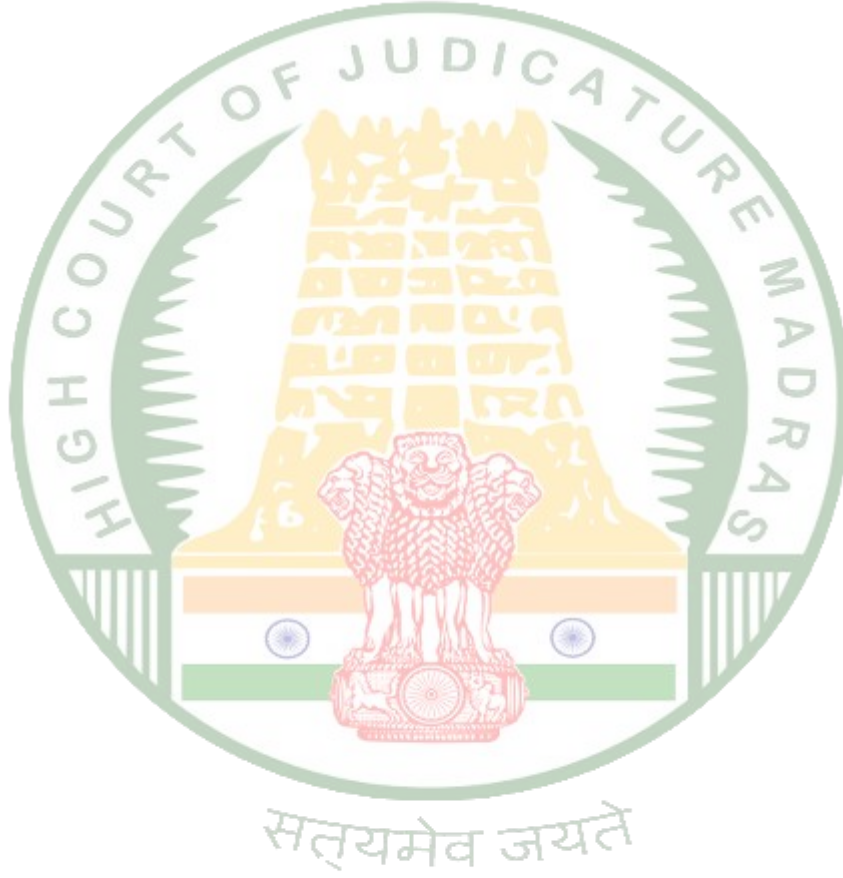
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To

+lcc to Mr.R.Prem Narayan, Advocate, S.R.No.79516
+lcc to Ms.Sudarsana Sundar, Advocate, S.R.No.79448

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