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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. S. RAMESH

W.P. (MD) No. 842 of 2011

and

M.P. (MD) No. 1 of 2011

M/s. Balsen Exports India
DP No. CS-11(P)
Industrial Estate,
Kappalur, Madurai
Rep. by Partner C.A. Senkathir

... Petitioner

Vs.

1. The Chairman & Managing Director,
The Tamil Nadu Small Scale Industrial
Corporation (SIDCO),
Guindy, Chennai- 600 032.

2. The General Manager,
The Tamil Nadu Small Scale Industrial
Corporation (SIDCO),
Guindy, Chennai- 600 032.

3. The Branch Manager,
SIDCO Branch Office,
Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent in ref. Rc. No. 18292/I E-2D/2010, dated 12.01.2011 and quash the same.

For Petitioner	: Mr. G. Prabhu Rajadurai for M/s. R. Ponkarthikeyan
For RR 1 and 2	: Mr. Aayiram K Selvakumar Government Advocate
For R3	: Mr. R. Janakiramulu

ORDER

<https://hcservices.ecourts.gov.in/hcservices/> It is submitted by the learned counsel for the petitioner that the petitioner was allotted with a plot bearing No. D.P. No. CS-11(P) in Industrial Estate, Kappalur. The said allotment was cancelled by



the first respondent in ref. Rc.No.18292/I E-2D/2010, dated 12.01.2011. The said order is impugned in the present writ petition.

2. Heard both sides.

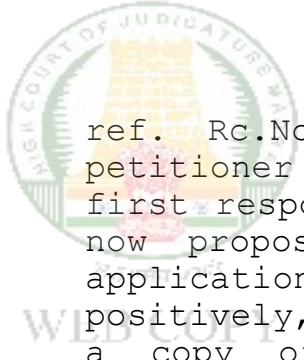
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3. The case of the petitioner is that the said plot was allotted on 09.12.1993, for the purpose of running small scale industry. The nature of the business, which was originally contemplated by the petitioner was synthetic gem cutting and readymade garments. Subsequently, the petitioner felt that the business was not feasible and therefore changed his business activity to one of plastic recycling. At this juncture, when the respondent had issued a show cause notice on 20.11.2008 and reminder dated 10.11.2010, informing the petitioner that he has failed to utilise the allotted plot the petitioner, in his reply dated 08.01.2011, had categorically explained all the above said facts and further stated that he has also been paying the House tax and Business tax to the local body authorities for the business which he is now running. Without reference to the explanation given by the petitioner, the impugned order came to be passed.

4. The purpose for which allotments of this nature are made in favour of individuals is to encourage the growth of small scale industries. It is not in dispute that the petitioner, who intends to run a different business activity is also a small scale industry. Further more, the petitioner had utilised the allotted plot by putting up shed and is now carrying on the present business activity. Of course, the business, which is now being run has not been ratified by the first respondent. Nevertheless, I do not find any justification on the cancellation of the allotment, for non-utilisation of the plot. In the circumstances, the learned counsel for the petitioner relied on the judgement of the Hon'ble Division Bench of this Court, made in W.A.No.905 & 906 of 1998, dated 06.10.2009, wherein it has held as follows:

"It is to be noted that the very object of the second respondent is to promote small scale industries in the State of Tamil Nadu and the allottee by delaying the construction of the building and non allotment such as transfer/subletting or use of the plot for unauthorized purposes warranting cancellation of the allotment. The allottee is in possession of the plot for more than 17 years on the date of cancellation of the allotment after the payment of the entire cost of the plot."

5. In the back-drop of the above findings, I am of the considered view that the impugned order dated 12.01.2011, passed by the first respondent cancelling the allotment is not justifiable. Accordingly, the impugned order passed by the first respondent in



ref. Rc.No.18292/I E-2D/2010, dated 12.01.2011 is quashed. The petitioner is granted liberty to make a fresh representation to the first respondent seeking for ratification of the business which is now proposed in the subject plot and on receipt of such an application, the first respondent shall consider the same positively, within a period of six weeks from the date of receipt of a copy of such application. While passing such orders, the respondent is at liberty to impose such terms and conditions, which may be fit and reasonable. If the petitioner is in arrears of any rent, it is open to the respondents to recover the same in the manner known to law.

6. With the above direction, this Writ Petition is disposed of. No Costs. Subsequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Chairman & Managing Director,
The Tamil Nadu Small Scale Industrial
Corporation (SIDCO),
Guindy,
Chennai- 600 032.

2. The General Manager,
The Tamil Nadu Small Scale Industrial
Corporation (SIDCO),
Guindy,
Chennai- 600 032.

3. The Branch Manager,
SIDCO Branch Office,
Madurai.

+ 1 CC TO Mr.R.PON KARTHIKEYAN, ADVOCATE IN SR No. 8408

PJL

TE/CM-MSA : 28/02/2017 : 3P/5C

W.P. (MD) No.842 of 2011
and
M.P. (MD) No.1 of 2011
14.02.2017