

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.11.2018

CORAM:
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27173 of 2008

Karthika Industries,
represented by its Partner,
Mr.M.K.Prasad,
No.C-53, Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.

..Petitioner

Vs

1. The Chairman
SIDCO Head Office,
Guindy Industrial Estate,
Guindy, Chennai - 600 032.
2. The Managing Director,
SIDCO Head Office,
Guindy Industrial Estate,
Guindy, Chennai - 600 032.
3. The Branch Manager/Estate Officer,
TANSIDCO,
Thriu.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus or any other appropriate writ by calling for the records of the second respondent in pursuance of the order in Ref.No.18225/R5/2002/4 dated 06.02.2006 and quash the said order and consequently direct the third respondent to cancel the eviction order passed in Rc.No.168/A4/07 dated 29.10.2008.

For Petitioner : Mr.S.Rajasekar
For Respondents : Mr.S.Yashwanth [for RR1 to 3]

O R D E R

The writ petition has been filed against the impugned order dated 06.02.2006 of the 2nd respondent and consequently to direct the third respondent to cancel the eviction order passed in Rc.No.168/A4/07 dated 29.10.2008.

2.The petitioner, a partnership concern, purchased land to an extent of 4525 sq. ft. by a sale deed dated 16.09.1988 in the respondent's Industrial Estate called Thiru.Vi.Ka Industrial Estate, Guindy. The petitioner was also allotted an open space adjacent to the aforesaid land on a monthly rent of Rs.88/- per month. The petitioner had put up a small shed to store raw materials, which according to them got washed away due to the floods in Chennai in 2005.

3.In the year 2006, vide impugned order dated 06.02.2006, the respondents intimated the petitioner that they were taking up the work of upgradation of Guindy Industrial Estate under Integrated Infrastructure Development Scheme and therefore, the open space to the extent of 4360 sq. ft. allotted on rental basis was required for the above upgradation work.

4.It has been further stated that the respondents came to know that the petitioner had leased out the shed to M/s.Ellar Infotech Solutions Pvt. Ltd. without the permission of the respondent and in view of the same, the allotment of the open space on rental basis was cancelled and the petitioner was directed to handover the possession to the Branch Manager of the respondents.

5.Thereafter, the third respondent ordered eviction of the petitioner by an order dated 01.02.2007 bearing reference Rc.No.415/A5/2002-1. Against the eviction order, the petitioner preferred an appeal before the City Civil Court at Chennai vide C.M.A.No.29 of 2007.

6.By an order dated 25.03.2008, the said eviction order passed by the third respondent was set aside and the case was remitted back to the third respondent to pass a fresh order after giving reasonable opportunity to the petitioner to put forth their submission. The petitioner was directed to submit documents before the 3rd respondent, if any.

7.Pursuant to the aforesaid remand order, the third respondent once again passed an order dated 29.10.2008 for evicting the petitioner. The third respondent has observed that an additional open space land to an extent of 4360 sq. ft. that was allotted on rental basis for storing the raw material for the manufacture of rolling shutters was no longer used for the aforesaid purpose as the petitioner has changed the line of business and has entered into software business and has started M/s.Ellar Infotech Solutions Pvt. Ltd. without the approval of SIDCO.

8.Under these circumstances, the petitioner was asked to vacate the premises, failing which, the possession would be taken on 18.11.2008 at about 11.00 a.m. by SIDCO officials as per the provisions of Tamil Nadu Public Premises Act. Under these circumstances, the petitioner has approached this Court by filing this petition.

9.The petitioner obtained an interim status quo order from this Court on 17.11.2008. However, the said order was not extended. The case is now taken up for final disposal.

10.Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.S.Yashwanth, learned counsel appearing for the respondents.

11.The learned counsel appearing for the petitioner would submit that there was a mistake in not challenging the impugned order earlier and that they had only challenged the eviction order dated 01.02.2007, which came to be remanded vide order dated 25.03.2008 and in remand proceedings, once again, the third respondent has confirmed the eviction. However, he submits that the impugned order dated 06.02.2006 is to be quashed, in as much as the basis of which, the petitioner was being sought to be evicted has been passed without following the principles of natural justice and therefore, the petitioner be given an opportunity to explain to the respondents his position.

12.The learned counsel appearing for the petitioner further submits that the petitioner has changed the line of business and entering into software business and therefore, the open space that was allotted in 1988 was being used for the software business and that the said business is being carried out under the name and stile of M/s.Ellar Infotech Solutions Pvt. Ltd. The basis for cancelling the allotment is the alleged failure of the petitioner in getting necessary permission from SIDCO for using the space for the software business.

13.Per contra, the learned counsel appearing for the respondents submitted that the writ petition is liable to be dismissed for latches, in as much as the petitioner did not approach earlier and instead merely pursued remedy against the eviction order.

14.The respondents in their counter affidavit reiterated the submission that since the petitioner had leased out the shed to M/s.Ellar Infotech Solutions Pvt. Ltd. without getting permission of SIDCO, the respondents were justified in initiating the eviction proceedings. They further submitted that the land was required for the purpose of Integrated Infrastructure Development Scheme.

15.The petitioner has been in possession of the leased land since 1988 and it was cancelled by the impugned order dated 06.02.2006 and thereafter, statusquo was ordered briefly for two weeks on 17.11.208. However, the respondents have not proceeded with said Development Scheme, even though the status quo order was not continued after two weeks. It is noticed that the impugned order has been passed without giving an opportunity for

the petitioner to give a proper explanation, though the petitioner had successfully challenged the eviction orders passed by the third respondent.

16.The impugned order being non speaking order, I am of the view that the ends of justice would be met, if the respondents are directed to hear the petitioner on merits and pass a fresh order. I therefore, set aside the impugned order in so far as it seeks to cancel the open space allotted to the petitioner and the consequence flowing therefrom. The impugned order shall be treated as a show cause notice. The petitioner shall file reply before the second respondent within a period of 30 days from the date of receipt of a copy of this order. Accordingly, the impugned order stands quashed the case stands remanded back for proper determination by 2nd respondent without prejudice to the rights of the respondents to offer the open space to the petitioner for a fresh lease and/or outright purchase at the prevailing rates.

17.The above writ petition is disposed of accordingly. No costs.

Arul

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

1. The Chairman
SIDCO Head Office,
Guindy Industrial Estate,
Guindy, Chennai - 600 032.
2. The Managing Director,
SIDCO Head Office,
Guindy Industrial Estate,
Guindy, Chennai - 600 032.

+lcc to Mr.S.Rajasekar, Advocate, S.R.No.76302
+lcc to Mr.S.Yashwant, Advocate, S.R.No.76180

KS(CO)
KAK(19/12/2018)

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