



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.10.2018
CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

WEB COPY

W.P. (MD) No.19413 of 2016
and
W.M.P. (MD) No.13989 of 2016

R.Kanagaraj

... Petitioner

/Vs./

The Secretary,
Madurai Marketing Committee,
Madurai Mattuthavani Paddy Commercial Complex,
Madurai.

... Respondent

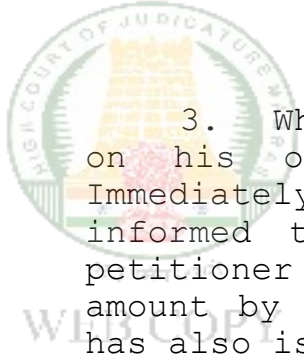
PRAYER: Writ petition - filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the Respondent in Na.Ka.No.Aa2/297/2016 dated 17.06.2016 and to quash the same and direct the Respondent to execute sale deed with relating to shop No.192 situated at Madurai Mattuthavani Paddy Commercial Complex Building, Mattuthavani, Madurai-7, in favour of the petitioner's concern JAIRAKS within the time stipulated by this Court.

For Petitioner : Mr.T.Mohan
for M/s.M.R.Sreenivasan
For Respondents : Mr.R.Anandharaj

ORDER

The petitioner is a partnership firm involved in manufacturing and marketing of Agro Chemicals and Pesticides in Tamil Nadu. In 2001, the petitioner came to know that the shops were being allotted in Madurai Mattuthavani Paddy Commercial Complex Building. Since the petitioner firm is dealing with Agro chemicals and pesticides, they wanted to apply for allotment of shop in the above said complex for marketing of their product.

2. One S.Rajaram, was working in the firm as Regional Marketing Manager and being Regional Marketing Manager, he was given authorization to apply for the allotment of a shop in the said complex by giving power of attorney to him. In view of the power of attorney given to him, the said Rajaram applied for allotment of a shop in the name of the petitioner's firm and in response to the application, a shop was allotted in Shop No.192 by a resolution of Madurai Marketing Committee, dated 27.01.2006.



3. While so, the said Rajaram had left the petitioner's firm on his own accord for his personal reasons on 31.11.2007. Immediately, after exit of the said Rajaram, the petitioner firm has informed their dealers about the development. Thereafter, the petitioner herein has been managing the firm and paying regular amount by way of monthly installments and the respondent official has also issued necessary receipts for the payments.

4. On completion of payment of the entire amounts due for the allotment of the shop, the petitioner firm sent a letter to the respondent on 16.02.2016, requesting him to issue allotment order and register the shop in the firm's name. In response to the request, the respondent, by proceedings in Na.Ka.No.Aa2/297/2016 dated 17.06.2016, rejected the request stating that the allotment order and the acceptance letter stood in the name of erstwhile Marketing Manager, Rajaram. Further, the respondent sent a letter dated 30.06.2016 to the shop, addressed to S.Rajaram of the petitioner firm and directed to produce the allotment order, the last payment receipts, the property tax and commercial tax for the year 2017-18 paid to the Corporation, the last two electricity bills paid, the maintenance charge payment receipts and the acceptance order so as to register the shop. Immediately, after receipt of the letter dated 30.06.2016. On behalf of the petitioner firm, the respondent was informed in person that they were in-charge of the firm and the said Rajaram had left their services and produced all the necessary documents in original as required by the respondent. Thereafter, the petitioner requested the respondent to register the shop in the name of the petitioner firm herein, since the allotment order itself shows the name of the petitioner firm only and not in the name of the erstwhile Marketing Manager, Rajaram.

5. At that stage, the petitioner was informed that suitable decision will be taken with regard to the request made by the petitioner. However, no further action was taken by the respondent towards the request of the petitioner. In these circumstances, the petitioner is before this Court challenging the order of the respondent in Na.Ka.No.Aa2/297/2016 dated 17.06.2016 rejecting the request of the petitioner for allotment order and register the shop in the petitioner firm's name.

6. The learned counsel appearing for the petitioner would submit that all the payments were made from the date of allotment of the shop till the completion of the monthly installments in the name of the firm and during the relevant point of time, when allotment was made, the firm authorized the said Rajaram to deal with the respondent in order to get the allotment. However, the said Rajaram admittedly left the services of the firm way back in the year 2007 and thereafter, the payments were regularly made to the respondent committee by the petitioner firm. All the documents, which are connected with the activities of the firm stand in the name of the firm and this fact is also known to the respondent. However, for no valid reasons, the respondent rejected the request of the petitioner



to make allotment in the name of the firm, despite receipt of all the payments due to them towards the shop allotted to them.

7. The learned counsel appearing for the petitioner has also produced copy of the eligibility order passed by the respondent, in which at Serial No.2, which shows that Rajaram was representing the petitioner's firm. All the relevant documents, which were made available to the respondent establish the fact that it was the petitioner's firm, which made the offer to take the shop for outright purchase and the same was also accepted and the said Rajaram was only acting as Power Agent at the relevant point of time and therefore, the respondent cannot reject the request of the petitioner for allotting the shop in the name of the petitioner's firm, notwithstanding the entire payments paid by the petitioner.

8. The learned counsel appearing for the respondent would submit that if the petitioner would obtain No Objection Certificate from the said Rajaram, the same will be considered.

9. This Court has considered the rival submissions of the learned counsel appearing on behalf of both sides and perused the materials and pleadings placed on record.

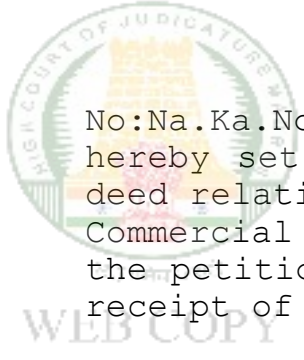
10. Inevitable conclusion that could be drawn in the present writ petition is that it is the petitioner's firm, to which the shop had been allotted and the said Rajaram was only acting as Power Agent at the relevant point of time being an employee of the firm as Marketing Manager. He, being only an employee of the firm and acted as Power Agent at the first instance of the firm, cannot stake any claim or right of allotment of the shop as against the petitioner's firm.

11. In any event, the said Rajaram having left the services of the petitioner firm in 2007 itself, it is not for the respondent to insist that the petitioner firm should get No Objection Certificate from the said Rajaram in order to make allotment of the shop in favour of the petitioner firm.

12. From the documents made available in the writ proceedings, it is very clear that entire payments had been made only in the name of the petitioner firm and all the relevant documents stood in the name of the petitioner firm only.

13. In such view of the matter, this Court is unable to appreciate as to how the respondent committee can insist that the allotment being made only in favour of the petitioner's erstwhile employee Rajaram. The stand of the respondent is perse untenable and cannot be countenanced both on law or on facts.

14. For the above said reasons, this Court is of the considered view that the petitioner has made out a clear case for grant of relief. Therefore, the impugned order



No:Na.Ka.No.Aa2/297/2016 dated 17.06.2016 of the respondent is hereby set aside and the respondent is directed to execute a sale deed relating to Shop No.192, situated at Madurai Mattuthavani Paddy Commercial Complex Building, Mattuthavani, Madurai-7, in favour of the petitioner firm within a period of eight weeks from the date of receipt of a copy of this order.

15. With the above direction, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Secretary,
Madurai Marketing Committee,
Madurai Mattuthavani Paddy Commercial Complex,
Madurai.

+1CC to Mr.M.R.Sreenivasan, Advocate, SR.No.88340

Order made in
W.P. (MD) No.19413 of 2016
01.10.2018

SM

ES/SKN/RSK/SAR 4/09.10.2018/4P/3C