

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.20283 to 20288 of 2008 (6 WPs)
&
M.P.Nos.1 to 1 of 2008

1 P.A.FRANCIS ... PETITIONER in WP No.20283 of 2008
1 P.A.ALEX ... PETITIONER in WP No.20284 of 2008
1 M.S.IRUDYARAJ ... PETITIONER in WP No.20285 of 2008
1 N.DURAI ... PETITIONER in WP No.20286 of 2008
1 SJ.JUSTIN ... PETITIONER in WP No.20287 of 2008
1 N.KASPAR ... PETITIONER in WP No.20288 of 2008

Vs.

1.Tamil Nadu Small Industries Development
Corporation Ltd.,
Rep. by Chairman cum Managing Director,
Thiru. Vi. Ka. Industrial Estate,
Guindy, Chennai-600 032.

2.The District Industrial Centre,
Kancheepuram.

3.The Branch Manager,
TNSIDCO Branch Office,
Tirumazhisai.

4.The District Collector,
Kancheepuram District,
Kancheepuram.

5.The State of Tamilnadu
Rep. by the Secretary,
Department of Land Administration,
Secretariat, Fort. St. George,
Chennai-9.

[R5-impleaded and cause title amended
as per order dated 01.04.2011 in
M.P.Nos.1 & 2 of 2011]
... Respondents

Prayer in W.P.No.20283 to 20288 of 2008: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to impugned order dated 25.07.2008 in Rc.No.11226/Y4/2006 and quash the same and consequently to direct the respondents to execute the sale deed in favour of the petitioner with patta in respect of the Shed Nos.1, 6, 3, 7, 5 & 4 respectively (in all WPs) in S.No.229/3 of Molasur Village, Sriperumputhur Taluk, Kancheepuram (old Chenglepet) District.

For Petitioner in all WPs : Mr.R.Kannan
For Respondents in all WPs : Mr.D.Raghu, GA for R2&R4
Mr.S.Yashwanth for R1&R3

COMMON ORDER

The issue involved in all these writ petitions is one and the same and therefore, all these writ petitions are being disposed of by this common order.

2.These petitions have been filed by the petitioners for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent relating to impugned order dated 25.07.2008 in Rc.No.11226/Y4/2006 and quash the same and consequently to direct the respondents to execute the sale deed in favour of the petitioner with patta in respect of the Shed Nos.1, 6, 3, 7, 5 & 4 in S.No.229/3 of Molasur Village, Sriperumputhur Taluk, Kancheepuram (old Chenglepet) District.

3.In order to promote the Industrial Development of Small Industries in Rural Area, respondents 1 and 2 made a proposal in the year 1979-80 to the 4th respondent requesting for alienation of poramboke land in Kancheepuram District to develop 150 units of industrial sheds in 10 Villages of the said District. Under the said scheme, the first respondent made a request to the 4th respondent for alienation of land to an extent of 1 acre in S.No.229/3 of Molasur Village, Sriperumpudur Taluk, classified as grazing ground poramboke in Revenue Accounts for construction of ten sheds (20' x 20'). The 4th respondent accepting the proposal of respondents 1 and 2, gave temporary permission to the 1st respondent to enter upon land in S.No.229/3 measuring an extent of 1 acre out of 6.56 acres of Molasur Village, by order

dated 04.06.1980, since there was no objection either from villagers or village panchayat. The Commissioner of Panchayat Union, Sriperumpudur, has resolved by resolution dated 27.12.1979, giving no objection for the said proposal. The value of the land was fixed at the rate of Rs.50/- per cent totalling Rs.5000/-.

4. Pursuant to the above proceedings, the possession of the land was handed over to the 1st respondent by the 2nd respondent on 11.06.1980. However, the 1st respondent was able to construct only 55 units in the villages viz., Molasur (10), Malaipattu (10), Padappai (15), Kammalam Poondy (10) and Vedapalayam (10). The applications were called for taking over the industrial units. Accordingly, the petitioners were selected for occupying the tiny sheds for the purpose of establishing Matchbox Industry and each petitioner was selected as one among 10 applicants. After the selection process, the selected candidates were given training for manufacture of Matches and each applicant had deposited Rs.2,000/-. The respondents 1 and 2 fixed a sum of Rs.18,500/- as the cost of land and building of each unit and Rs.7,500/- as the cost of equipments, machinery and tools. The 1st respondent arranged loan for the cost of building and land with TIIC on the security of the land and building by creating simple mortgage with each applicant to be repaid in 100 installments with interest. The applicants became the members of the Local Chenglepet District Small Match Producers Industrial Service Co-op. Society Ltd., Kancheepuram IND No.1196, which gave loans for machinery and tools for running the units and entrepreneurs had to market their produces through the said society. Thereafter, the 1st respondent issued allotment order through the second respondent, allotting shed Nos. 1, 6, 3, 7, 5 & 4 in favour of the petitioners in R.C.No.10371/A2/79 dated 22.06.1981.

5. However, in the year 1980, the said Match Industry Units faced major set back in getting licence. The Licensing Authority refused to grant licence on the ground that the units were situated among the village habitation. Therefore, the petitioners could not run the Industry and were not able to comply with the conditions imposed in the allotment order. However, the petitioners paid the entire dues to TIIC and that they obtained "no due certificate" from the TIIC. While that being so, in the year 2007, the third respondent issued a notice asking the petitioners to show cause for non-utilizing the sheds for industrial purpose and converting as residential purpose. Therefore, all the petitioners joined together and submitted a common explanation to the said show cause notice on 26.12.2007. However, without considering the explanation, the first respondent passed an order dated 25.07.2008, following the earlier letter dated 30.06.2008, cancelling the allotment order

dated 22.06.1981 for not utilizing the land and building for industrial purpose which is in violation of the conditions of the licence and the said order was served on the petitioners on 06.08.2008, against which, the present writ petitions have been filed.

6.The learned counsel for the petitioners would submit that though the Allotment Order was passed in 1980 and subsequently, the petitioners paid the entire dues to TIIC, however, the show cause notice was issued in the year 2007 and after a lapse of 27 years, the impugned orders were passed on the ground that the petitioners were not utilizing the land and building for Match Industry, however, the authorities have not granted licence to establish such industry, since the allotment of land is within the habitation of the village. Hence, the petitioners are not responsible for establishing the Match Industry and it purely vested with the authorities who have not permitted to grant licence to run such industry. Hence, the petitioners, who borrowed loan from third parties, had settled the amount to the TIIC. However, explaining the above position, from the date of allotment, the petitioners are in possession and enjoyment of the Industrial Units as their own for more than 25 years and they are entitled to obtain patta in their names and admittedly, the fourth respondent did not transfer the land in S.No.229/3 of Mosalur Village, to the first respondent. Accordingly, the petitioners collectively made a representation through advocate on 23.07.2007 for transfer of patta in the name of petitioners and the same is still pending.

7.The learned counsel for the respondents 1 & 3 would submit that initially several show cause notices were issued on 19.12.1981 and 18.07.2008 and the Branch Manager of the first respondent, sent a cancellation proposal and after providing opportunity to the petitioners, the cancellation order was passed, since the petitioners are not utilizing the land which was allotted for the purpose of Match Industry. Therefore, he prayed for dismissal of the writ petitions.

8.The learned Government Advocate appearing for respondents 2 and 4 would submit that if any representation is received from the petitioners, it will be considered and appropriate orders would be passed.

9. Considering the facts and circumstances of the case and as the petitioners were allotted the disputed land in the year 1980, though on a perusal of the impugned orders, the third reference says that there was a show cause notice dated 19.12.1981, however, the proposal of cancellation of Allotment Order was issued only in the year 2008, after a lapse of 27 years and there is no proper explanation for not cancelling

immediately after violation. However, the respondents 1 and 2 has taken 28 years for cancellation of Allotment Order, which is unsustainable in law and that there is no proper explanation for delay in passing the cancellation of Allotment Order. Admittedly, the fourth respondent has not transferred the land in favour of respondents 1 and 2.

10. In view of the above, I am inclined to interfere with the order of the first respondent. Accordingly, the impugned order is set aside. Liberty is granted to the petitioners to file appropriate petition before the appropriate forum for transfer of land and liberty is also granted to the petitioners to make a representation before the fourth respondent/District Collector and on receipt of such representation, the fourth respondent/District Collector shall consider the representation on merits and in accordance with law. If the land is transferred, thereafter, the respondents 1 and 2 shall consider the execution of sale deed in favour of the petitioners.

11. With the above direction, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Chairman cum Managing Director,
Tamil Nadu Small Industries Development
Corporation Ltd.,
Thiru. Vi. Ka. Industrial Estate,
Guindy, Chennai-600 032.

2.The District Industrial Centre,
Kancheepuram.

3.The Branch Manager,
TNSIDCO Branch Office, Tirumazhisai.

4.The District Collector,
Kancheepuram District,
Kancheepuram.

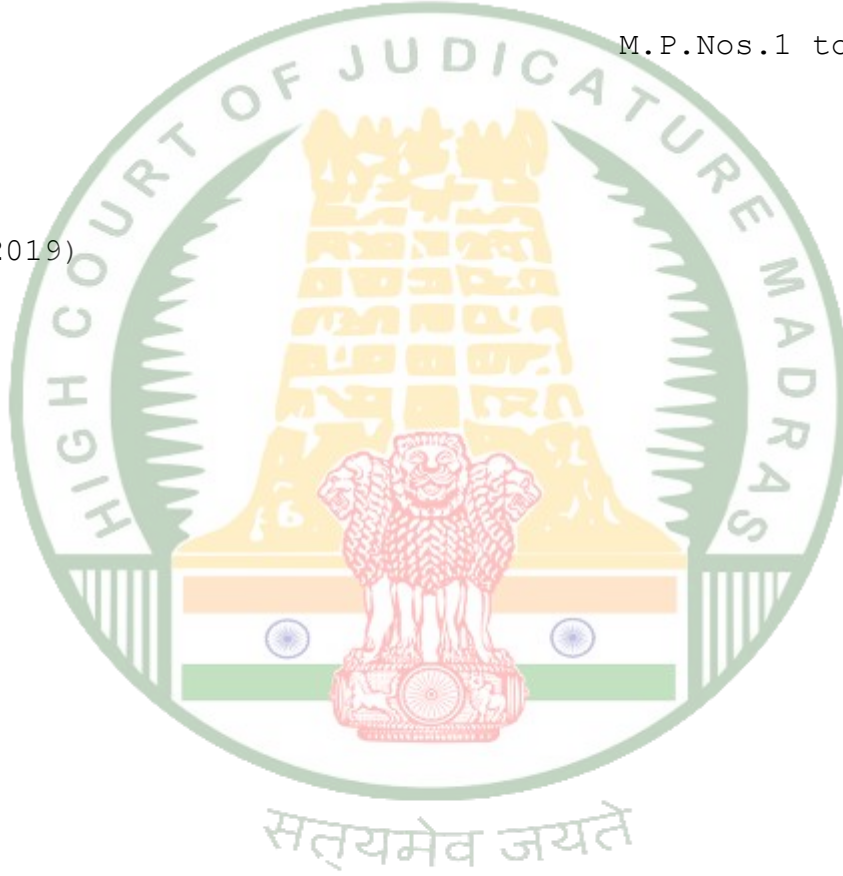
5.The Secretary,
State of Tamilnadu
Department of Land Administration,
Secretariat, Fort. St. George,
Chennai-9.

+1 CC to Govt. Pleader sr 65926.
+1 CC to Mr.S.Yashwanth, Advocate sr 65675.
+2 Ccs to Mr.R.Kannan, advocate sr 65458.

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&
M.P.Nos.1 to 1 of 2008

SV(CO)
SP(20/09/2019)



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