

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.21206 of 2008

and

M.P.Nos. 1 of 2008 & 1 of 2011

S.Lakshmipathy

Proprietor

M/s. Sunshine Graphics,

No.22, Thiruneermalai Main Road,

Saraswathipuram, Chromepet,

Chennai - 600 044.

..Petitioner

vs

1. The Chairman and Managing Director,
Tamil Nadu Small Industries
Development Corporation Ltd.,
Polwels Road, Kathipara Junction,
Chennai - 600 016.

2. The Branch Manager,
Tamil Nadu Small Industries
Corporation Ltd.,
SIDCO Industrial Estate,
Thirumudivakkam,
Chennai - 600 044.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorarified Mandamus, to call for the records of the 1st respondent relating to R.C.No. 16606/Y2/2003 dated 24.04.2008 passed by the office of the Chairman and Managing Director Tamilnadu Small Industries Development Corporation Ltd. and quash the same, consequently direct the Respondent to permit the petitioner to pay the balance amount of Rs.3,56,500/- with 17% interest.

For Petitioner : Mr.D.Govinda Reddy

For Respondents : Mr.S.Yaswanth

O R D E R

The petitioner filed this Writ Petition, for a writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to R.C.No.16606/Y2/2003 dated 24.04.2008 passed by the office of the Chairman and Managing Director Tamil Nadu Small Industries Development Corporation Ltd. and quash the same and consequently, direct the Respondents to permit the petitioner to pay the balance amount of Rs.3,56,500/- together with 17% interest.

2. The petitioner is the proprietor of M/s.Sunshine Graphics at No.22, Thiruneermalai Main Road, Saraswathipuram, Chrompet, Chennai - 600 004. In order to develop the above printing press business and with a view to shift the printing press business to own premises, the petitioner applied for allotment of Industrial Plot at SIDCO Industrial Estate Thirumudivakkam, Chennai - 600 004, on 15.11.2003 along with necessary Application form and paid the Registration Fees Rs.13,000/- on 25.11.2003. On considering the Application, the Chairman and Managing Director Tamil Nadu Small Industrial Development Corporation, by their allotment order in R.C.No.16606/Y2/2003, dated 18.12.2003, allotted the Developed plot bearing No.277, measuring an extent of 0.17 acres, at SIDCO Industrial Estate Thirumudivakkam, Chennai - 600 044. The total cost of the developed plot was fixed as Rs.4,75,400/- and as per the said allotment order, 25% of the cost of the developed plot is Rs.1,18,900/- together with Rs.12,750/- towards Special maintenance charges to be paid within two months from the date of the allotment order.

3. The balance amount of 75% of the cost of the developed plot is Rs.3,56,500/- and that is to be paid within six months from the date of the order. However, 17% interest will be charged on 25% of cost of the plot after expiry of two months from the date of the said order and a sum of Rs.11,500/- towards water supply and sanitary connection charges should be paid along with 25% of the cost of the plot. The petitioner received reminder letter dated 02.04.2004, and paid a sum of Rs.1,24,575/- on 28.05.2004 as per receipt No.176040.

4. The petitioner stated that due to inevitable circumstances, he could not pay the balance amount of Rs.3,56,500/-. The Branch Manager by his letter No.1161/B/03, dated 01.02.2005, intimated that non settlement of balance cost in time amounts to violation of terms and conditions of order of allotment. The petitioner also sent his letter dated 10.02.2005, explaining the circumstances for non-payment of the balance amount of the cost of the plot.

5. The learned counsel appearing for the petitioner would

submit that the Deputy General Manager by letter No.16606/42/03, dated 25.04.2005, informed that he was permitted to clear the dues of the plot cost upto 31.05.2005 at the revised cost applicable for the year 2005-2006 or allotted cost with interest whichever is higher. Thereafter, by their letter No.16606/Y2/2003, dated 23.06.2005, he cancelled the order of allotment forfeiting the EMD of Rs.10,000/- and steps were made to refund the balance amount by their letters dated 09.11.2005 and 28.11.2005.

6. Immediately, the petitioner made a representation dated 01.12.2005, explaining the circumstances for non-payment of amount and sought time for the paying amount. The petitioner also paid a sum of Rs.1,00,000/- by way of cheque with covering letter dated 13.12.2005, to the authorities. The Branch Manager declined to receive the same. The Manager, Industrial investment by letter R.C.No.16606/Y2/03, dated 17.05.2006, requested to meet the Managing Director on 24.06.2006. The petitioner also approached the authorities on 19.05.2006 and requested to ascertain the quantum of the amount, to pay the same. The Authorities by their letter dated 04.10.2006, requested to pay the sum of Rs.6,36,825/- towards the balance cost for the plot on or before 31.10.2006.

7. The petitioner made a representation dated 20.10.2006, seeking permission to pay the balance amount of Rs.3,58,000/- together with interest. The Branch Manager by his letter Ref.RC.No.1161/B/03, dated 28.01.2008 called him to attend the meeting at the Branch Office, Thirumudivakkam on 05.02.2006 and requested to submit the proof of readiness to start the Industry. If the petitioner failed to submit the proof for readiness to start the Industrial activity, action will be taken to cancel the allotment order.

8. The learned counsel appearing for the petitioner submitted that the petitioner has sent his representation dated 05.02.2008, expressing his readiness to shift his Industrial unit from rented premises to Thirumudivakkam site and requested the authority to permit him to pay the balance amount of Rs.3,56,000/- together with interest instead of Rs.6,36,825/-. He also expressed his willingness to pay the said amount. The office of the Chairman and Managing Director without considering the same, passed an order R.C.No.16606/Y2/2003, dated 24.04.2008, confirming the order of allotment and order of cancellation of the allotment of the Plot No. 277 in the Industrial Estate in hereby confirmed.

9. The learned counsel appearing for the respondents would submit that since the petitioner has not paid any amount towards the plot cost within the prescribed time stipulated in the allotment order, the second respondent has issued a Show Cause

Notice on 02.04.2004 requesting the petitioner to reply within 15 days as to why the allotment should not be cancelled, as per the clauses 4 and 19 of the conditions of the allotment order. Thereafter, the petitioner has paid only 25% of the cost of the plot along with interest for belated payment (i.e) Rs.1,24,575/- on 28.05.2004. The petitioner has not paid the balance 75% of the cost of plot i.e. Rs.3,56,500/- which he should have paid immediately after the receipt of the second respondent's notice dated 02.04.2004. The second respondent has sent another Show Cause notice on 01.02.2005, asking the petitioner why allotment should not be cancelled for non-payment of the plot cost. The petitioner on receipt of the said notice, sought three months time for paying the balance plot cost vide letter dated 10.02.2005. The said request was also favourably considered and extension of time was granted till 31.05.2005 with a specific condition that the allottee should clear the dues at the revised cost of the plot applicable for the year 2005-2006 or the allotted cost together with interest, whichever is higher and in the said letter dated 25.05.2005, the second respondent has specifically indicated that this is the final chance given to the petitioner. Even after this extended period, the petitioner herein has not taken any positive steps towards payment of the balance cost. Hence, the respondent having no other option has cancelled the allotment vide letter Rc.No.16606/Y2/03, dated 23.06.2005, by forfeiting the EMD amount of Rs.10,000/- and stating that balance amount paid by the petitioner will be refunded separately. Subsequently, the refund was also ordered on 09.11.2005, refunding the amount of Rs. 1,24,575/- and the same was conveyed to the petitioner. The petitioner was also asked to furnish the original cash receipt issued by the second respondent along with an advance stamped receipt in letter dated 28.11.2005. But, the petitioner has not responded to the same and vide his letter dated 19.05.2006, informed that he is ready to settle the entire outstanding plot cost immediately. The respondent in response to the request of the petitioner has informed that the outstanding amount is Rs.6,36,825/- and directed him to pay the said amount on or before 31.10.2006 and in the letter it has been specifically stated that only if the outstanding plot cost is paid, the cancellation order will be revoked. Even thereafter, the petitioner has not come forward to pay the revised plot cost but requested the respondent to accept the amount stated in the allotment order dated 18.12.2003. This request of the petitioner being an unjustifiable one, the second respondent has rightly rejected the request and confirmed the cancellation order vide proceedings dated 24.04.2008. Hence, he submitted that this writ petition is completely devoid of merits and deserves to be dismissed.

10. On perusal of the records, it is seen that the allotment order was passed in favour of the petitioner on 18.12.2003. The relevant clauses in the allotment order is extracted hereunder:

1. (b) The cost of the Development Plot shall be paid in the manner indicated below;

i) 25% of the cost of the Developed Plot i.e. Rs.1,18,900/-... (Rupees One lakh, eighteen thousand and nine hundred only along with Rs.12,750/- towards special maintenance charges only) shall be paid within two months from the date of issue of this order.

ii) Balance 75% of the cost of the Developed Plot i.e. Rs.3,56,500/- (Rupees Three lakh, fifty six thousand and five hundred only) shall be paid within six months from the date of issue of this order. However, belated payment interest @ 17% will be charged on 25% cost of the Developed Plot after expiry of two months from the date of this order and on the balance cost after expiry of six months from the date of this order.

iii) A sum of Rs. 11,500/- towards water supply and sanitary connection charges should be paid along with 75% cost of plot.

v) If the cost of the Developed Plot is not paid within the stipulated period but on the request of the allottee, extension of time is granted by SIDCO for paying such cost, interest shall be paid at the rate of 17% p.a. or at such rate as maybe fixed by SIDCO and in force for the time being, for the defaulted amount for the defaulted period. However such extension of time will be granted or refused at the sole discretion of SIDCO. If the full cost is not paid within the stipulated period, it is the discretion of SIDCO to revise the cost upwards.

vii) All payments shall be made at the Branch Office of SIDCO, Thirumudivakkam by means of demand draft drawn in favour of TANSIDCO Ltd.

(c) If the full cost of the plot is paid but the Memorandum of Understanding is

not executed by the allottee within one month after the full cost is paid or if the plot is not taken over within one month after the execution of Memorandum of Understanding, the allotment will be cancelled subject to the provisions hereinafter contained.

2. In addition to the amount payable under condition 1 above, towards the price of the Developed Plot, the charges for the provisions of Water supply and sewerage facilities to the Developed Plot at such rate as may be fixed by SIDCO shall be paid.

3. Notwithstanding anything contained in condition 1 above, if the cost of the developed plot is not paid in full before the time limit granted by SIDCO or within one year from the date of allotment, the plot cost shall be paid at the rate fixed. (in respect of the land in the said Industrial Estate) for the financial year during which the plot cost is paid in full.

4. Notwithstanding anything contained in condition 1 and 2 and 3 above, if the cost of the plot is not paid within the time stipulated in this order or within the extended time, if any, SIDCO will be at liberty to cancel the allotment.

5. The possession of the Developed Plot shall be handed over only after the payment of the plot cost in full and on the execution of a Memorandum of Understanding with the Branch Officer, Thirumudivakkam in the prescribed Format and after furnishing provisional SSI Certificate. If any excess area of land over and above the allotted area is found available, the plot will be handed over only after payment of the cost of such excess land in one lump sum at the rate prevailing at that time, within the time stipulated by SIDCO.

The allottee shall take possession of the plot in 'as is where is condition' and no demand for further development such as earth filling and raising the level will be

entertained.

6. The developed plot shall be utilised by the allottee only for the purpose for which it is allotted and not for any other purpose.

7. (a). The construction of the industrial building on the Developed Plot shall be commenced within six months from the date of taking possession of the plot, after obtaining the NOC from SIDCO and completed within eighteen months from the date of such commencement. The allottee should also obtain the approval of local bodies and or other authorities concerned for the construction of the industrial building. "

11. On perusal of the above said allotment order, belated payment interest @ 17% will be charged on 25% cost of the Developed Plot after expiry of two months from the date of the order and on the balance cost after expiry of six months from the date of the order.

12. As per Clause (4), if the cost of the plot is not paid within the time stipulated in the order or within the extended time, if any, SIDCO will be at liberty to cancel the allotment.

13. It is clearly evident from the records that the petitioner has not paid the amount within the time stipulated in the allotment order. Even after, extension of time, the petitioner has not paid the amount in due. Therefore, the allotment order was cancelled by the respondents.

14. In view of the above, this Court is not inclined to interfere with the order dated 24.04.2008 passed by the respondents and the respondents are directed to refund the amount as per the order dated 23.06.2005 within a period of four weeks from the date of receipt of a copy of this order.

15. Accordingly, the present writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Chairman and Managing Director,
Tamil Nadu Small Industries
Development Corporation Ltd.,
Polwels Road, Kathipara Junction,
Chennai - 600 016.

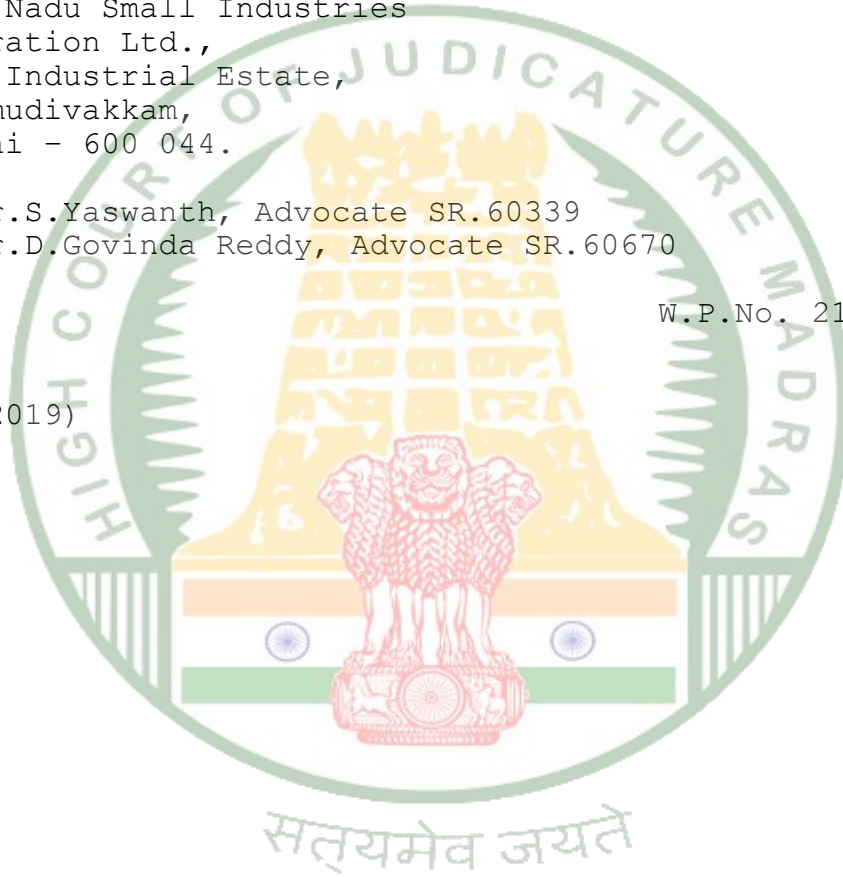
2. The Branch Manager,
Tamil Nadu Small Industries
Corporation Ltd.,
SIDCO Industrial Estate,
Thirumudivakkam,
Chennai - 600 044.

+1cc to Mr.S.Yaswanth, Advocate SR.60339

+1cc to Mr.D.Govinda Reddy, Advocate SR.60670

W.P.No. 21206 of 2008

SJ(CO)
CB(30/10/2019)



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