

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21270 of 2008

and

M.P.No. 1 of 2008

P.M.Benjamin

...Petitioner

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 State of Tamil Nadu
Rep by District Collector,
Kancheepuram District,
Kancheepuram.

... Respondents

Prayer: 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 consequentially to direct the respondents to execute the sale deed in favour of the petitioner with patta in respect of the Shed No. 8 in S.No.229/3 of Molasur Village, Sriperumputhur Taluk, Kancheepuram (old Chenglepet) District.

For Petitioner : Mr.R.Kannan

For Respondents : Mr.J.Ramesh, AGP
for R2 & R4
M/s.B.Sarathkumar
for R3.

ORDER

The petitioner has filed this Writ Petition, to issue a 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 consequentially to direct the respondents to execute the sale deed in favour of the petitioner with patta in respect of the Shed No.8 in S.No.229/3 of Molasur Village, Sriperumputhur Taluk, Kancheepuram (old Chenglepet) District.

2. The case of the petitioner is that 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/-.

3. 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 No. 8 in favour of the petitioner in R.C.No.10371/A2/79 dated 22.06.1981.

4.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 petitioner could not run the Industry and was not able to comply with the conditions imposed in the allotment order. However, the petitioner paid the entire dues to TIIC and that he obtained "no due certificate" from the TIIC. While that being so, in the year 2007, the third respondent issued a notice asking the petitioner to show cause for non-utilizing the shed for industrial purpose and converting as residential purpose. Therefore, the petitioner submitted an 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 petitioner on 06.08.2008, against which, the present writ petition has been filed.

5.The learned counsel for the petitioner would submit that though the Allotment Order was passed in 1980 and subsequently, the petitioner 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 order was passed on the ground that the petitioner was 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 petitioner is not responsible for establishing the Match Industry and it is purely vested with the authorities who have not permitted to grant licence to run such industry. Hence, the petitioner, who borrowed loan from third parties, had settled the amount to the TIIC. However, explaining the above position, from the date of allotment, the petitioner is in possession and enjoyment of the Industrial Units for more than 25 years and he is entitled to obtain patta in his name and admittedly, the fourth respondent did not transfer the land in S.No.229/3 of Mosalur Village, to the first respondent. Accordingly, the petitioner made a representation through advocate on 23.07.2007 for transfer of patta in the name of petitioner and the same is still pending.

6.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 petitioner, the cancellation order was passed, since the petitioner is not utilizing the land which was allotted for the purpose of Match Industry. Therefore, he prayed for dismissal of the writ petition.

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

8. Considering the facts and circumstances of the case and as the petitioner was 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 allotment immediately after violation. However, the respondents 1 and 2 have 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.

9. In view of the above, this Court is inclined to interfere with the order of the first respondent. Accordingly, the impugned order is set aside. Liberty is granted to the petitioner to file appropriate petition before the appropriate forum for transfer of land and liberty is also granted to the petitioner 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 petitioner.

10. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

kmm

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.

+lcc to Mr.R.Kannan, Advocate Sr.70808

W.P.No.21270 of 2008

SJ(CO)
CB(14/10/2019)



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