

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.22857 of 2008

and

M.P.No. 1 of 2008

The Salem SIDCO Industrial Owners Association
47 & 48, Industrial Estate, Five Roads,
Salem - 636 004 represented by its Secretary
Sri C.Kannappan

..Petitioner

vs

1. Tamil Nadu Small Industries Development
Corporation Ltd.
Thiru-vi-ka Industrial Estate,
Near SIDCO Electronics Complex, Guindy,
Chennai - 600 032 reptd. by its Chairman &
Managing Director.

2. The Branch Manager
Tamilnadu SIDCO, Branch Office,
Five Roads, Salem - 636 004.

.. 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, calling for
the records of the Respondents culminating with the order of
rejection Rc.6792/D3/2003-2 dated 23.07.2008 and quash the same
and direct the Respondents to sanction the plan submitted by the
Petitioner or in the alternative to allot a suitable site in the
estate to the Petitioner.

For Petitioner : Mr.M.Vaidyanathan

For Respondents : Mr.V.P.Sengottuvel
for R1 & R2

O R D E R

The prayer sought for herein in this Writ Petition is for
issuance of a Writ of Certiorarified Mandamus, calling for the
records of the respondents culminating with the order of
rejection Rc.6792/D3/2003-2 dated 23.07.2008 and quash the same

and direct the Respondents to sanction the plan submitted by the Petitioner or in the alternative to allot a suitable site in the estate to the Petitioner.

2. The case of the petitioner is that he applied for a site on 13.07.1995 in the Industrial Layout for putting up building for the association for convening and holding meetings. The first respondent also allotted land measuring 2400 sq. ft. to the petitioner on payment of full consideration. The petitioner also submitted a plan on 07.06.1999 to the first respondent for approval and the first respondent suggested certain modifications. Despite carrying out the modifications, the first respondent did not communicate its approval. At that juncture, the second respondent issued a show cause notice dated 11.06.2008 directing the petitioner to send a reply within seven days from the date of receipt of the notice. The petitioner also sent a reply dated 26.06.2008 explaining the delay on the part of the authority in approving the plan. However, the first respondent passed an impugned order giving a totally different reason for cancelling the allotment. Aggrieved against the rejection order, the petitioner has come up with the present writ petition.

3. The learned counsel appearing for the petitioner would submit that the allotment of land to the Salem SIDCO Industrial owners Association was cancelled on the ground that the land falls under 'Open Space Reservation' and should not be allotted for industrial purpose. He therefore contended that without going into the merits of the case, this court may permit the petitioner to make a fresh representation before the concerned Authority.

4. On a perusal of the records, it reveals that the petitioner was allotted land of 2,400 sq.ft. in the Industries Estate in the Year 1995 under the full cost basis. Immediately thereafter, the petitioner paid the entire amount and thereafter the land was handed over on 02.09.1998. However, subsequently in the year 2008, allotment was cancelled on the ground that the land allotted in favour of the petitioner falls under the open space reservation and should not be allotted for industrial purpose. Hence, the respondent cancelled the allotment against which the present writ petition is filed.

5. In an approved layout, if any place is earmarked for open space, it cannot be allotted to any third parties. However, in the present case, the entire land cost was paid in the year 1995 itself. On a perusal of the allotment order dated 22.12.1995, the petitioner has paid a sum of Rs.57,120/-. Thereafter, the cancellation order was passed in the year 2008.

6. In view of the above, I am inclined to issue a direction

to the respondents to refund the amount of Rs.57,120/- together with interest at the rate of 12% interest from 23.07.2008 onwards, within a period of four weeks from the date of receipt of a copy of this order and liberty is granted to the petitioner to make fresh representation to the Authorities for allotment of un objectionable land available in any of the area. If such representation is received, the respondents shall pass orders within a period of twelve weeks from the date of receipt of a copy of the representation.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

1.The Chairman
Tamil Nadu Small Industries Development
Corporation Ltd.
Thiru-vi-ka Industrial Estate,
Near SIDCO Electronics Complex, Guindy,
Chennai - 600 032.

2. The Branch Manager
Tamilnadu SIDCO, Branch Office,
Five Roads, Salem - 636 004.

+1cc to Mr.V.P.Sengottuvel, Advocate SR.60319
+1cc to Mr.M.Vaidyanathan, Advocate SR.60100

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W.P.No. 22857 of 2008

BS (CO)
CB(16/10/2019)

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