

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27136 of 2009 &
M.P.No.1 of 2009

M/s.The Ganga Varnishes and Chemical Industries
Limited,

Rep. by its Managing Director,
Mr.Ganananda Giri,
No.14, Rajeswari Nagar,
Near Rainbow Nagar Main Road,
Pondicherry-605 011.

...Petitioner

Vs.

1.The Chairman & Managing Director,
Pondicherry Industrial Promotion
Development and Investment
Corporation Limited,
No.16, Romain Rolland Street,
Pondicherry-605 001.

2.The Executive Engineer,
Pondicherry Industrial Promotion
Development and Investment
Corporation Limited,
No.16, Romain Rolland Street,
Pondicherry 605 001

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records pertaining to the impugned order dated 24.11.2009 in No.PIPDIC/Dev/125/76/88/6293 passed by the second respondent and quash the same as illegal, arbitrary and unlawful.

For Petitioner : Mr.S.Sethuraman

For Respondents : Mr.D.Ravichandran

O R D E R

The petitioner has filed this writ petition, seeking the following relief:-

"To issue a a writ of Certiorari to call for the records pertaining to the impugned order dated 24.11.2009 in No.PIPDIC/Dev/125/76/88/6293

passed by the second respondent and quash the same as illegal, arbitrary and unlawful."

2.The case of the petitioner is that the petitioner company was incorporated in the year 1976. The main object of the company was to manufacture the products like varnish and its allied products. The petitioner factory was established in Pondicherry with the assistance of the respondent Pondicherry Industrial Promotion Development and Investment Corporation Limited. During the year 1976, the Corporation was allotting lands for setting industries in the Industrial Backward area in Pondicherry. The petitioner Company applied for allotment of 5 acres of land for construction of building and erection of machineries for manufacturing varnishes and allied products of the company. Accordingly, the respondent Corporation allotted an extent of 5 acres of land in Survey No.108/9E, at Kirukambakkam Industrial Estate (PIPDIC) and executed a lease deed dated 29.01.1976 as Document No.629/1976. The lease was initially for a period of 9 years subject to renewal of the lease period on mutual agreement.

3.Though the period of lease had expired in the year 1985, the petitioner was allowed to continue in possession and enjoyment of the land as a tenant to holding over, the respondent was enhancing the rent periodically from time to time and as of now, the rent is Rs.6278.25 p.a. The respondent was accepting the rent and the petitioner was running the manufacturing unit by doing job works. While so, on 26.11.2008, the second respondent issued a letter stating that an extent of 1.32 acres found to be vacant land and called upon the petitioner to furnish concrete proposal for utilization of the vacant land, failing which, an action will be taken for cancellation of the said land and it has to be re-allotted to the entrepreneurs who need land. Immediately thereafter the petitioner submitted its explanation dated 01.12.2008 informed the proposal for expansion and utilization of the land. However, since no action has been taken for petitioner's explanation, the respondent Corporation passed the impugned order by cancelling 1.32 acres which was unutilized by the petitioner out of 5 acres allotted to the petitioner. Challenging the impugned order, the present writ petition has been filed.

4.The learned counsel for the petitioner would submit that though general conditions stipulated by the respondent Corporation in clause - iv clearly stated that the total built up area shall not be more than 2/3 of the area of the plot allotted to such lessee area as may be required under regulations applicable to the particular industry. A strip of not less than 5 metres shall be left open to the sky on the periphery of the plot on all sides. Contrary to the said clause-

iv, now the respondent Corporation passed the impugned order that the petitioner is not utilizing 1.32 acres and it is clear violation of their own condition. Hence, the petitioner prays for allowing the writ petition.

5.The learned counsel for the respondent Corporation would submit that though it is true that clause-iv imposed the condition that the petitioner has to build up not more than 2/3 of the area of the plot allotted to the lessee and a strip of not less than 5 metres shall be left open to the sky on the periphery of the plot on all sides. However, in the present case, the impugned order came to be passed as the petitioner not utilized the entire 5 acres for constructing the building in respect of industry.

6.On perusal of the conditions allotment in clause-iv, the petitioner has to build up the area not less than 2/3 of the area, however, there is no condition available to cancel the lease deed on the ground that non-utilization of the land allotted to the lessee.

7.Accordingly, the writ petition is allowed and the impugned order dated 24.11.2009 passed by the second respondent is hereby set aside. However, there is any violation with regard to lease conditions, it is left open to the respondents to workout their remedy by affording personal hearing to the petitioner and by following due process of law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman & Managing Director,
Pondicherry Industrial Promotion
Development and Investment
Corporation Limited,
No.16, Romain Rolland Street,
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2.The Executive Engineer,
Pondicherry Industrial Promotion
Development and Investment
Corporation Limited,
No.16, Romain Rolland Street,
Pondicherry 605 001.

+1cc to Mr.S.Sethuraman Advocate, S.R.No.67178
+1cc to Mr.D.Ravichandran Advocate, S.R.No.67739

PVS (CO)
CB(17/09/2019)

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