IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2019
CORAM:
THE HONOURABLE MR.JUSTICE M.S.RAMESH
W.P.No.14155 of 2005
and W.P.M.P.No. 15482 of 2005
and W.V.M.P.No. 263 of 2007

Shree Ambika Sugars Limited,
Eldorado, 5th Floor,
112, Nungambakkam High Road,
Chennai 600 034. ... Petitioner

Vs.

1. State of Tamil Nadu
rep. Secretary to Government,
Revenue Department,
Fort St. George, Chennai 600 009.
2. The Commissioner,
Land Reforms, Ezhilagam,
Chepauk, Chennai 5.
3. The Assistant Commissioner,
(Land Reforms),
Ground Floor Collector's Office Compound,
Villupuram. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the proceedings initiated by the third respondent pursuant to notice dated 30.03.2005 in Rc.No.A2/2611/2000 as unconstitutional and without jurisdiction.

For Petitioner : Mr.C.V.Vijayakumar,
for Mr.T.R.Rajaraman

For Respondents : Mrs.K.Bhuvaneswari, AGP

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O R D E R

This petition has been filed to declare the proceedings initiated by the third respondent, pursuant to the notice dated 30.03.2005 in Rc.No.A2/2611/2000 as unconstitutional.

2. When the first respondent had rejected the request for grant of permission under Section 37 (A) of the Tamil Nadu Land Reforms (Taxation of Ceiling of Land) Act on 17.12.2002, the second respondent herein issued a notice dated 30.03.2005

calling upon the petitioner herein for an enquiry, which notice is under challenge in the present Writ Petition.

3. Today, this Court by an order passed in W.P.No.14156 of 2005 has quashed the order of the first respondent dated 17.12.2002, by observing as follows:

"12. Before adverting to the reasonings given by the first respondent in the order dated 17.12.2002, it would be appropriate to look into the factual position under the said Rules. Rule 56(2) of the Rules empowers the Government to grant permission to hold or acquire whole or part of such land for bona-fide purpose, on an application made for permission to hold or acquire the excess land. As such, the very reasoning in the order of the first respondent dated 17.12.2002 that when the whole of the industrial or commercial undertaking is transferred alone, the Government is empowered to grant such permission, is not acceptable. When the Rules provide for permission for transfer of a part of the land under Rule 56 (2), the very basis on which the said order dated 17.12.2002 is passed, becomes illegal.

13. Furthermore, Rule 56 (3) (ix) stipulates that when the industrial or commercial undertaking is transferred, the transferor and transferee shall intimate such transfer within 30 days to the Government.

14. In this case, the petitioner intended to transfer the land in favour of Shree Ambika Sugars Ltd. based on the letter of intent dated 15.03.1996 and pursuant to the intention, both the transferor as well as the transferee had made applications dated 29.06.1998. In view of the letters of intent, it can be said that the applications were made in time. Secondly, when the Rules permit transfer of a portion of the land, there is no impediment on the part of the first respondent to grant such a permission.

15. It is the case of the petitioner that due to their administrative reasons, the petitioner intended to invest 54% of the capital in Shree Ambika Sugars Ltd. Since the business of manufacturing of sugar did not change, as well as the lands were also sought to be utilised for the same purpose for which the exemption was granted, the respondents are not justified in refusing the permission.

16. The learned Additional Government Pleader, by reiterating the averments made in the counter

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affidavit submitted that when the first respondent had passed the order on 17.12.2002, no prior notice was given, since the petitioner had violated the terms of exemption granted earlier.

17. I am unable to agree with such submission. Under Rule 56 (3) (ix), when the first respondent intends to pass an adverse order in the application seeking permission, an opportunity of being heard ought to have been given. The Rules stipulate that such an opportunity should be given at the time of cancelling the permission. Such an analogy can be drawn to the case where the application seeking for permission is rejected. Even otherwise, the principles of natural justice require that due opportunity of hearing should be given in all cases where the orders are sought to be interfered with.

18. In consequence of the order passed by the first respondent, the second respondent had now initiated proceedings, whereby, the notice dated 30.03.2005 was issued, calling upon the petitioner to give his explanation as to why declaration contemplated under Section 20 (1) should not be made.

19. Now as this Court has found that the order refusing permission itself is bad, the consequential proceedings initiated by the second respondent cannot be valid.

20. For all the foregoing reasons, the order of the first respondent dated 17.12.2002 in Letter No.538, and the notice dated 30.03.2015 of the third respondent in Rc.No.A2/2611/2000, are quashed. Consequently, the first respondent shall consider the application of the petitioner herein viz., Shree Arooran Sugars Limited as well as Shree Ambika Sugars Ltd., both dated 29.06.1998 in the light of the above observations and pass necessary orders in accordance with law, after giving due opportunity to the representatives of Shree Arooran Sugars Limited, as well as Shree Ambika Sugars Ltd. Such an exercise shall be completed within a period of three months from the date of receipt of the order. The Writ Petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed."

4. Since the order of the first respondent has already been set aside and the matter has been remanded to the first

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respondent for reconsideration, the consequential notice dated 30.03.2005 in the present Writ Petition cannot be sustained. Hence, the notice dated 30.03.2005 on the file of the third respondent is quashed. The Writ Petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pvs

To

1. Secretary to Government,
State of Tamil Nadu
Revenue Department,
Fort St. George, Chennai 600 009.

2. The Commissioner,
Land Reforms, Ezhilagam,
Chepauk, Chennai 5.

3. The Assistant Commissioner,
(Land Reforms),
Ground Floor Collector's Office Compound, Villupuram.

+1 cc to The Government Pleader, Sr.No. 26291

W.P.No.14155 of 2005

CSL/07.05.2019

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