

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.32975 of 2005

M/s Swasthick Trading Company
rep.by its Partner S.A.Ramaraj
Shed No.II-2, Dr.Vikram Sarabai
Instronic Estate
Thiruvanniyur
Chennai 600 041

.. Petitioner

-vs-

1. State of Tamil Nadu rep.by
its Secretary to Government
Small Industries Department
Secretariat
Chennai 600 009
2. Industries Commissioner and
Director of Industries & Commerce
Chepauk
Chennai 600 005
3. The Principal Secretary/
Industries Commissioner and Director of
Industries and Commerce
SIDCO Corporate Building
Guindy
Chennai 600 032
(R3 impleaded vide order dated 1.7.2019
made in WMP No.12781 of 2019 in
WP No.32975 of 2005)
4. The Managing Director
TANSIDCO
SIDCO Corporation Building
Guindy
Chennai 600 032
(R4 impleaded vide order dated 9.8.2019
made in WMP No.20728 of 2019 in
WP No.32975 of 2005)

.. Respondents

of 6600 sq.ft., and their offer of Rs.13,50,000/- has been accepted. However, as per the allotment letter of the Joint Director of Industries and Commerce (Electrical & Electronics), the extent of land being 7923 sq.ft., the petitioner was asked to pay the extra cost for the additional area at the rate of Rs.70/- per sq.ft., if the extent of area is found to be more than 6600 sq.ft. Drawing the notice of this Court to another communication issued by the Tamil Nadu Industrial Investment Corporation Limited dated 17.7.96, it was stated that subsequent to the confirmation by the apex committee of the Tamil Nadu Industrial Investment Corporation Limited, the petitioner has remitted the bid amount in four stages and the final amount was also remitted on 24.6.96 within the stipulated period of one month. In the meanwhile, the State Bank of India, Siruthozhil Branch, Madras informed that the highest bidder M/s Swasthick Trading Company has availed the loan from them for purchasing the land and building and therefore requested the Tamil Nadu Industrial Investment Corporation Limited to forward the sale deed directly to them. In view of the above, it has been made clear that the petitioner M/s Swasthick Trading company, a partnership concern, is the absolute owner of the land and building situated at Type II, No.2, Vikram Sarabai Instronic Estate, Thiruvannamiyur and in the said letter, the Tamil Nadu Industrial Investment Corporation Limited also has informed that they did not have any objection for execution of the sale deed in favour of the petitioner. Thereafter, the Department of Industries and Commerce vide the communication bearing R.C.No.91090/EL3/96-3 dated 15.9.2005 asked the petitioner to pay a sum of Rs.7,68,440/- towards the plot/shed cost so as to regulate the allotment order and execute the sale deed in favour of the petitioner within a period of 15 days time, failing which interest at the rate of 14.5% per annum would be charged. The petitioner was taken aback by the impugned order dated 15.9.2005. The learned counsel for the petitioner submitted that when it is the admitted case of the petitioner and the respondents that the petitioner became the highest bidder for purchase of the land and building located at Type II, No.2, Vikram Sarabai Instronic Estate, Thiruvannamiyur and that the petitioner also paid the entire amount, the fourth respondent has to come forward to execute the sale deed in their favour. While so, the impugned order dated 15.9.2005 without even issuing any notice whatsoever, which is against the principles of natural justice, is liable to be set aside. Moreover, in the impugned order, the second respondent has also not stated by giving any reason or explanation as to how the petitioner company is liable to pay the plot cost as though the petitioner is an allottee. When the petitioner is not at all an allottee, the second respondent cannot say that the petitioner should pay

the escalation in price, which is quantified at Rs.7,68,440/-. Adding further, the learned counsel also contended that had the respondents indicated about the dues payable by the original allottee, the petitioner would not have participated in the public auction held on 27.12.95. When the petitioner had taken part in the auction and was also declared as the highest bidder and thereafter the petitioner also remitted the entire amount of Rs.13,50,000/- within the stipulated time, the respondents cannot refuse to execute the sale deed in favour of the petitioner. If there is any communication gap between the Tamil Nadu Industrial Investment Corporation Limited and the Industries Department, it is for them to work out their grievances. But they cannot, for the mistake committed by any one of them, make the petitioner as the scapegoat. Therefore, the impugned order calling upon the petitioner to pay a sum of Rs.7,68,440/- which is no way justified is liable to be set aside. Moreover, no explanation whatsoever has been called for and no notice whatsoever has been issued calling upon the petitioner to take part in the inquiry to give his explanation. Hence, looking at the impugned order from any angle, the same is liable to be set aside.

3. A detailed counter affidavit has been filed by the respondents. The learned Additional Government Pleader for the respondents 1 to 3 submitted that the land and building sold in the public auction on 27.12.95 for a sum of Rs.13,50,000/-, inadvertently, has not included the dues payable by the original allottee M/s Winfield Electronics Private Limited. Therefore, the said amount was also included after the property was brought in public auction and subsequently sold in favour of the petitioner. Since the said amount of Rs.7,68,440/- is the amount payable by the original allottee M/s Winfield Electronics Private Limited, by mistake, it was overlooked, hence, the said amount has to be paid by the petitioner.

4. Replying to the said contentions, the learned counsel for the petitioner submitted that when this issue came up for consideration before this Court in W.P.Nos.17253 and 2856 of 1997 filed by Vikram Sarabai Instronic Estate Manufacturer's Association, Madras, the petitioner in W.P.No.2856 of 1997 and another member contending that the Government Order impugned therein cannot be made applicable to the petitioners, while answering a similar and identical issue in paragraph-17 of the order, this Court, by order dated 14.3.2001, has held that there is absolutely no reason whatsoever for the inordinate delay in not executing the sale deed in spite of the completion of payment of the entire equated monthly installments in the year 1985 itself. The petitioners therein who were also small scale

industrial units cannot be kept under suspension after having committed themselves to pay the equated monthly installments on the understanding that they will be the complete owners of the plots on the payment of the last installment and any further demand on a notional increase will be nothing but arbitrary, disproportionate and illegal.

5. However, the learned Additional Government Pleader for the respondents 1 to 3 submitted that the said order is applicable only to the petitioners therein.

6. Heard both sides.

7. This Court, while considering a similar and identical issue in W.P.Nos.17253 and 2856 of 1997 filed by the Vikram Sarabai Instronic Estate Manufacturer's Association and one another member like that of the petitioner herein, by order dated 14.3.2001, has clearly held that the respondents are not entitled to invoke the Government Order and demand the cost on that basis for execution of the sale deeds. In this context, it is pertinent to extract paragraphs 17 to 19 of the said order, holding as follows:-

"17. There is absolutely no reason whatsoever for the inordinate delay in not executing the sale deed in spite of the completion of payment of the entire equated monthly installments in the year 1985 itself. The petitioners, who are also small scale industrial units cannot be kept under suspension after having committed themselves to pay the equated monthly installments on the understanding that they will be the complete owners of the plots on the payment of the last installment. Any further demand on a notional increase will be nothing but arbitrary, disproportionate and illegal.

18. For all these reasons, I hold that the impugned Government Order is not applicable to the petitioners, and the respondents are not entitled to invoke this Government Order and demand the cost on that basis for the execution of sale deeds.

19. For the same reasons, the respondents are directed to execute registered sale deed in favour of the members of the petitioners in respect of the sheds respectively allotted to them in Dr.Vikram Sarabai Instronic Estate, Madras-41, within a period of three

months from the date of receipt of a copy of this order."

Further, the order dated 14.3.2001 passed in the aforementioned writ petitions was also confirmed by the Hon'ble Division Bench in its order dated 18.9.2003 passed in W.A.Nos.1012 & 1043 of 2001.

8. In that view of the matter, since the petitioner herein became the highest bidder and also paid the entire amount within the stipulated time, the respondents cannot apply a different yardstick when the issue has already been settled by this Court. Accordingly, the impugned order is set aside and the fourth respondent is hereby directed to execute the sale deed in favour of the petitioner in respect of the shed in question, within a period of four weeks from the date of receipt of a copy of this order. With this direction, the writ petition stands allowed. Consequently, W.P.M.P.No.35933 of 2005 and W.V.M.P.No.72 of 2009 are closed. No costs.

Sd/-
Asst.Registrar (CJ conf)

/true copy/

Sub Asst. Registrar

ss

To

1. The Secretary to Government
Small Industries Department
Secretariat
Chennai 600 009

2. The Industries Commissioner and
Director of Industries & Commerce
Chepauk
Chennai 600 005

3. The Principal Secretary/
Industries Commissioner and Director of
Industries and Commerce
SIDCO Corporate Building
Guindy
Chennai 600 032

4. The Managing Director
TANSIDCO
SIDCO Corporate Building
Guindy
Chennai 600 032

+1 cc to the Government Pleader sr81937
+1 cc to M/s.C.S.Associates Advocate sr81701
+1 cc to Mr.S.P.Prabhakaran Advocate sr81404

W.P.No.32975 of 2005

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