

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. Nos.3455 of 2010
and 23693 of 2008

W.P. No.3455 of 2010

C.S.Kumar

Proprietor

M/s.Visgo Handlings,
No.18, Thirumalai Nagar,
Near Shanthi Theatre,
(Padi), Korattur,
Chennai 600 080.

...Petitioner

Vs

1. State of Tamil Nadu,
Rep.by its Secretary to Government,
Small Industries Department,
Fort.St.George,
Chennai 600 009.
2. Tamil Nadu Small Industries Development Corporation Ltd.,
Rep.by its Chairman & Managing Director,
Near SIDCO Electronics Complex,
Thiru Vi.Ka.Industrial Estate, Guindy,
Chennai 600 032.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the orders passed by the second respondent made in RC.No.3324/R6/05-14 dated 01.08.2008, quash the same and direct the second respondent to execute the sale deed in favour of the petitioner in relation to plot No.2-C/3(SP), measuring 7280 sq.ft. Industrial Estate, Ambattur.

For Petitioner : M/s.S.F.Mohamed Yousuf

For Respondents: Mr.J.Ramesh
Additional Government Pleader for R1
M/s.B.Manoharan for R2

W.P.No.23693 of 2008

Tamil Nadu Electricals
Rep.by its Partner,
Mr.N.G.Ravi Prakash,
No.28, Prithivipakkam,
Ambattur,
Chennai 600 053.

...Petitioner

Vs

1. State of Tamil Nadu,
Rep.by its Secretary to Government,
Small Industries Department,
Fort.St.George,
Chennai 600 009.
 2. Tamil Nadu Small Industries Development Corporation Ltd.,
Rep.by its Chairman & Managing Director,
Near SIDCO Electronics Complex,
Thiru Vi.Ka.Industrial Estate, Guindy,
Chennai 600 032.
 3. The Project Officer,
Tamil Nadu Small Industries
Development Corporation Ltd.,
Administrative Block Building,
I Floor, Ambattur,
Chennai 600 058.
- ... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the proceedings of the second respondent in R.C.No.3324/R6/05-07, dated 01.08.2008 and quash the same and consequently direct the respondents to act on the basis of order of allotment dated 16.09.1993.

For Petitioner : Mr.Naveen Kumar Murthy

For Respondents: Mr.J.Ramesh

Additional Government Pleader for R1
Mrs.B.Manoharan for R2 & R3

C O M M O N O R D E R

The petitioner in W.P.No.23693 of 2008 is a small scale industry engaged in manufacturing power and distribution transformers and the other petitioner in W.P.No.3455 of 2010 is engaged in manufacture of material handling equipments. The petitioner/Tamil Nadu Electricals is functioning with number of employees and for the purpose of improving the business and

expanding its capacity and modernize the plants, the petitioner/Tamil Nadu Electricals, Chennai desired to get one developed plot at SIDCO Industrial Estate, Ambattur. The petitioners obtained application forms from the second respondent Corporation and applied for allotment of Industrial plots on 03.07.1993 and 23.08.1993 respectively. The second respondent/Tamil Nadu Small Industries Development Corporation Ltd., after considering the claim of the petitioners, issued allotment orders on 16.09.1993 vide its order No.R.C.No.21555/IE.1/93 allotting plot No.95-J (SP) measuring an extent of 17504 sq.ft in the Ambattur Industrial Estate, Chennai in favour of Tamil Nadu Electricals, Chennai and by proceedings 17422/1E/93 dated 04.08.1993 respectively in respect of petitioner in W.P.No.3455 of 2010.

2. The 2nd respondent after considering the applications filed by the petitioners issued allotment orders dated 04.08.1993 and 16.09.1993 respectively allotting the plots measuring 0.120 acre and 17504 sq.ft respectively to the petitioners. Further, the second respondent Corporation had allotted the aforesaid site to the petitioners for starting an industry for the manufacture of "Distribution and Special type of transformers" subject to various terms and conditions mentioned in the allotment order. The said allotments were made on outright sale basis and the value of the plots have been fixed at Rs.1,37,340/- and Rs.4,59,900/- respectively. The orders stipulated that the petitioner in W.P.No.3455 of 2010 should remit the entire amount of Rs.4,59,900/- together with a further sum of Rs.22,995/- being the service charges for the allotment of the plot on or before 30.11.1993. Thus the total amount to be remitted by the petitioner in W.P.No.23693 of 2008 towards the cost of the plot is Rs.4,82,895/-. The aforesaid allotment order further stipulated that the petitioner should produce S.S.I. Certificate issued by the Directorate of Industries, proof of financial tie-up for the project in the form of term loan sanction from the financial institution/Bank and also to obtain planning permission etc. Thereafter Ambattur Municipality issued planning permission to the petitioner in W.P.No.3455 of 2010 for construction and thereafter petitioners also applied for an electricity connection for the plot and prepared for construction activities by availing loan from the financial corporation. While being so, all of a sudden the respondent corporation issued the impugned orders dated 01.08.2008 to the petitioners and sought to cancel the allotments made in their favour alleging that the plots were not utilised for the purpose for which they were allotted as if the plots fall under fishing pond and other pond area should not be utilised for industrial purpose. On the above grounds the allotment orders were cancelled against which the present writ petitions have been filed.

3. The learned counsel for the petitioners would submit that though the plots were originally classified as Kulam Poromboke, thereafter the said Kulam Poramboke lost its

character while forming the Ambattur Industrial Estate and the SIDCO Small Industries Development Corporation after considering that the disputed land has lost its character from time immemorial, the land was handed over to the SIDCO and converted as plot area. After converting the plot, CMDA also approved and classified the area as industrial zone. Once the disputed area lost its character, there is no question of converting the same into its original position. The other reason assigned by SIDCO is not valid one and petitioner in W.P.No.23693 of 2008 says that the plot is used for storing yard, transformers and empty transformer tanks and other petitioner's plot utilised for industrial estate, accordingly he prays for allowing these writ petitions.

4. The learned Standing Counsel appearing for the respondents submitted that the said land is classified as Kulam Poromboke and inadvertently Kulam Poromboke land was converted as Industrial land and allotted in favour of the petitioners. On verification of the fact that the petitioners have not commenced the operation as per the terms of allotment and further it appears that original classification of the land is Kulam Poromboke and it cannot be converted into other purposes and inadvertently SIDCO converted the Kollam Poromboke as industrial plot, which is impermissible one, the order of cancellation has been passed. Further Revenue records reveals disputed land is classified as Kulam Poromboke and it cannot be allotted to anybody. Even the planning authority cannot issue planning permission either for starting industry or for any other purpose.

5. Considering that water bodies have to be restored in full for the benefit of the general public and also the fact that water body cannot be converted for any other purposes and has to be maintained in its original position, I am not inclined to interfere with the impugned order. However considering the fact that the petitioners have been allotted the plots and they also paid huge amounts in the year 1993 and till date the amount has not been returned to them. I am inclined to award 18% interest to the petitioners. Accordingly, the respondents are directed to refund the amount collected from the petitioners towards the plots with 18% interest p.a. from the date of receipt till the date of disbursement. The learned counsel for the respondents undertakes that the area will be restored to its original position within a period of two weeks, since the respondents have given undertaking. This Court is inclined to issue directions to the respondents to convert the disputed lands as pond area and fence the entire land area by not allowing the local residents to convert the pond and restore the same to its original position by taking all steps. After completing the work, the respondents are directed to file a compliance report with visual photographs before the Registrar (Judicial), High Court, Madras within a period of twelve weeks from receipt of the copy of this order.

6. Accordingly these writ petitions stand dismissed. No costs. Connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (Insp.cell)

//True copy//

Sub Assistant Registrar

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To

1. Secretary to Government,
Small Industries Department,
Fort.St.George,
Chennai 600 009.
2. The Chairman & Managing Director,
Tamil Nadu Small Industries Development Corporation Ltd.,
Near SIDCO Electronics Complex,
Thiru Vi.Ka.Industrial Estate, Guindy,
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I Floor, Ambattur,
Chennai 600 058.
4. The Secretary to Government,
Industries Department,
Fort.St.George,
Chennai 600 009.
5. The Registrar Judicial
High Court, Madras

+1cc to Mr.S.F.Mohamed Yousuf, Advocate SR.No.75938

+1cc to M/s.S.Varsha, Advocate SR.No.75365

+1cc to Mr.S.Yashwanth, Advocate SR.No.75680

W.P. Nos.3455 of 2010
and 23693 of 2008

SS (CO)
GMY (22/11/2019)