

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.03.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 5909 OF 2019

Mahalingam Exports

Plot No. P K 15 (SIDCO)

Thiru .Vi. Ka. Industrial Estate

Guindy, Chennai - 32 rep. by

its Proprietor Mr.P.Mahalingam

.. Petitioner

- Vs -

1. The Govt. of Tamil Nadu

rep. by Secretary

Department of Micro Small

and Medium Enterprises

Secretariat, Chennai - 9.

2. Tamil Nadu Small Industries

Development Corporation Limited

rep.by its Managing Director

SIDCO, Thiru Vi Ka Industrial Estate

Guindy, Chennai - 32.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 1st respondent to issue the necessary orders of G.O to the 2nd Respondent to execute and register a sale deed in favour of the petitioner in respect of the Property bearing Plot No PK 15, (SIDCO), Thiru Vi. Ka. Industrial Estate, Guindy, Chennai - 32.

For Petitioner : Mr. A.R.Karunakaran

For Respondent : Mr. J.Ramesh, AGP for R-1

Mr. A.Abdul Saleem for R-2

ORDER

This writ petition has been filed for a direction to the 1st respondent to issue necessary orders for execution and registration of sale deed in favour of the petitioner in respect of the Property bearing Plot No.PK 15, (SIDCO), Thiru Vi. Ka. Industrial Estate, Guindy, Chennai - 32 by the 2nd respondent.

2. The case of the petitioner is that he is the proprietor of Mahalingam Exports, functioning at Plot No.PK 15, (SIDCO), Thiru Vi. Ka. Industrial Estate, Guindy, Chennai - 32. The said plot, measuring about 5350 sq.ft., had been allotted to the petitioner by the 2nd respondent vide allotment letter dated 18.8.1995 bearing No.16182/Tho pey3/95. As per the allotment letter, the petitioner was to remit the cost fixed by the 2nd respondent within a stipulated time. Thereafter, sale deed was to be executed by the 2nd respondent in favour of the petitioner for commencement of its business.

3. According to the petitioner, he has complied with the terms and conditions stipulated in the allotment letter issued by the 2nd respondent. However, despite complying with the conditions, the land was not handed over by the 2nd respondent to the petitioner. Therefore, the petitioner approached this Court by filing W.P. No.8055 and 8056/2007. The said writ petitions came to be disposed of by a common order dated 12.8.10 directing the 2nd respondent to obtain orders from the Government and to hand over the land to the petitioner. Thereafter, on clearance by the Government, the land was handed over to the petitioner. However, while handing over possession, the actual square feet, which was allotted to the petitioner was only to an extent of 4501 sq.ft. and not as per the original allotment letter, by which allotment made was to an extent of 5350 sq.ft. According to the 2nd respondent, there was shortage of land and, therefore, only an extent of 4501 sq.ft. was handed over to the petitioner on 30.12.2010, whereinafter the petitioner commenced business from the said property.

4. Subsequently, a Memorandum of Understanding (for short 'MoU') was entered into between the petitioner and the 2nd respondent on 21.1.2011 with regard to various amenities to be provided by the 2nd respondent. As per the MoU, the petitioner has been paying maintenance and other charges to the 2nd respondent ever since. The petitioner has also been paying taxes and all other statutory dues. According to the petitioner, in terms of the MoU, the petitioner has been given permission to mortgage the property to Banks or Financial Institutions, subject to NOC being given by the 2nd respondent.

5. During the course of business, the petitioner had come to know that there is a small vacant land abutting to his property to an extent of 849 sq.ft. and, since the petitioner was in requirement of additional piece of land, a representation was made to the 2nd respondent on 9.5.16 for allotment of the additional piece of land of an extent of 849 sq.ft. Since no action has been forthcoming from the 2nd respondent, writ petition was filed in W.P. No.1759/17 and this Court, vide order dated 25.1.17, directed the 2nd respondent to consider the

representation of the petitioner on merits and in accordance with law. In pursuance of the said direction passed by this Court, the 2nd respondent, having been satisfied with the bona fide requirement of the petitioner, handed over the land to an extent of 849 sq.ft. to the petitioner on 10.1.19.

6. Whiles, the petitioner has been making repeated representations to the respondents for execution of sale deed in its favour in order to regularise the allotment of the plot. According to the petitioner, the 2nd respondent has been evasive and ultimately, the request made by the petitioner has not been considered as on date and, therefore, the petitioner is constrained to approach this Court seeking issue of writ of mandamus.

7. When the matter is taken up for hearing, learned counsel appearing for the 2nd respondent submits that in respect of allotment of land over 5,000 sq.ft., ratification of the Government is required and proposal in this regard has been mooted to the 1st respondent and as soon as ratification orders is received from the Government, the 2nd respondent would execute the sale deed in favour of the petitioner. In the absence of ratification, the 2nd respondent is unable to execute the sale deed as requested by the petitioner.

8. Learned Addl. Government Pleader appearing for the 1st respondent submits that a direction may be issued to the 1st respondent to pass necessary orders of ratification of the land allotted to the petitioner so that the 2nd respondent would be in a position to execute the sale deed in favour of the petitioner, as even as early as on 18.8.95, plot of an extent of 5,350 sq.ft., has been allotted to the petitioner.

9. Mr.A.R.Karunakaran, learned counsel appearing for the petitioner relied on a decision of this Court rendered by a learned single Judge in W.P. No.23083/2018 dated 10.12.18, wherein in identical circumstances, direction has been issued to the Government to accord ratification and that the 2nd respondent therein was also directed to execute the sale deed in favour of the petitioner therein within the time stipulated. Learned counsel further submits that there are number of decisions, similar to the one above, passed by this Court, wherein the respondents were directed to execute sale deeds in favour of similarly placed allottees. Reference was drawn to the relevant portion of the order, more especially paras 4 to 6, passed by the learned single Judge in W.P. No.23083/2018, which is

extracted hereunder for better clarity :-

"4. The second respondent has filed the counter affidavit and admitted the allotment letter dated 11.05.1994 and also the Memorandum of Understanding dated 11.11.1994. It is further stated that as per G.O. Ms. No.877, Industries Department dated 01.07.1982 in respect of the allotment of plots measuring more than 5000 sq.ft., the power is only with the first respondent and unless the first respondent ratifies the order of SIDCO in allotting the plots more than 5000 sq.ft., the Sale Deed cannot be executed. It is stated that 470 allottees were referred to the Government for passing ratification orders and already 411 allotments were ratified by the Government on 13.11.2009 and there are only 69 allotments, which are yet to be ratified and the case of the petitioner falls under one among such 69 allottees.

5. As stated earlier, already this Court had passed orders directing the second respondent to execute the sale deed in favour of the similar allottees and as admitted in the counter affidavit, when already 411 allottees were considered by the Government, there is no impediment for the respondents 1 and 2 to ratify and execute the sale deed respectively in favour of the petitioner.

6. Accordingly, the first respondent is directed to pass appropriate orders with regard to the ratification of allotment as requested by the second respondent within a period of four weeks from the date of receipt of a copy of this Order and the second respondent is directed to execute the Sale Deed in favour of the petitioner within a period of four weeks thereafter."

10. In consideration of the submissions made above on behalf of the learned counsel appearing on either side, this Court is of the view that the matter stands squarely covered by the directions passed by this Court in the aforesaid W.P. No.23083/2018. Even otherwise, the stand of the 2nd respondent is that the ratification of the Government, viz., the 1st respondent, is required before sale deed could be executed and that the proposal for such ratification is pending consideration before the 1st respondent. It appears that no decision has been

taken as on date by the 1st respondent on the said proposal mooted by the 2nd respondent.

11. In the above circumstances, in order to accelerate further action on the part of the 1st respondent, this Court, in the fitness of things, is of the considered view that appropriate direction has to be issued to the 1st respondent for issuing ratification to enable the 2nd respondent to execute the sale deed in favour of the petitioner in respect of total allotment of land of an extent of 5350 sq.ft., of which 4501 sq.ft., was originally allotted to the petitioner at Plot No.PK 15, (SIDCO), Thiru Vi. Ka. Industrial Estate, Guindy, Chennai - 32 and further allotment of 849 sq.ft., has been made to the petitioner on 10.1.2019 by the 2nd respondent.

12. Accordingly, this writ petition is allowed and the 1st respondent is directed to issue necessary ratification within four weeks from the date of receipt of a copy of this order enabling the 2nd respondent to execute the sale deed in favour of the petitioner in respect of total allotment of land of an extent of 5350 sq.ft., of which 4501 sq.ft., was originally allotted to the petitioner at Plot No.PK 15, (SIDCO), Thiru Vi. Ka. Industrial Estate, Guindy, Chennai - 32 and further allotment of 849 sq.ft., has been made to the petitioner on 10.1.2019 by the 2nd respondent. On receipt of the ratification from the Government, viz., the 1st respondent, the 2nd respondent shall execute the necessary sale deed within a period of four weeks therefrom.

13. This writ petition stands allowed with the aforesaid direction. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

GLN

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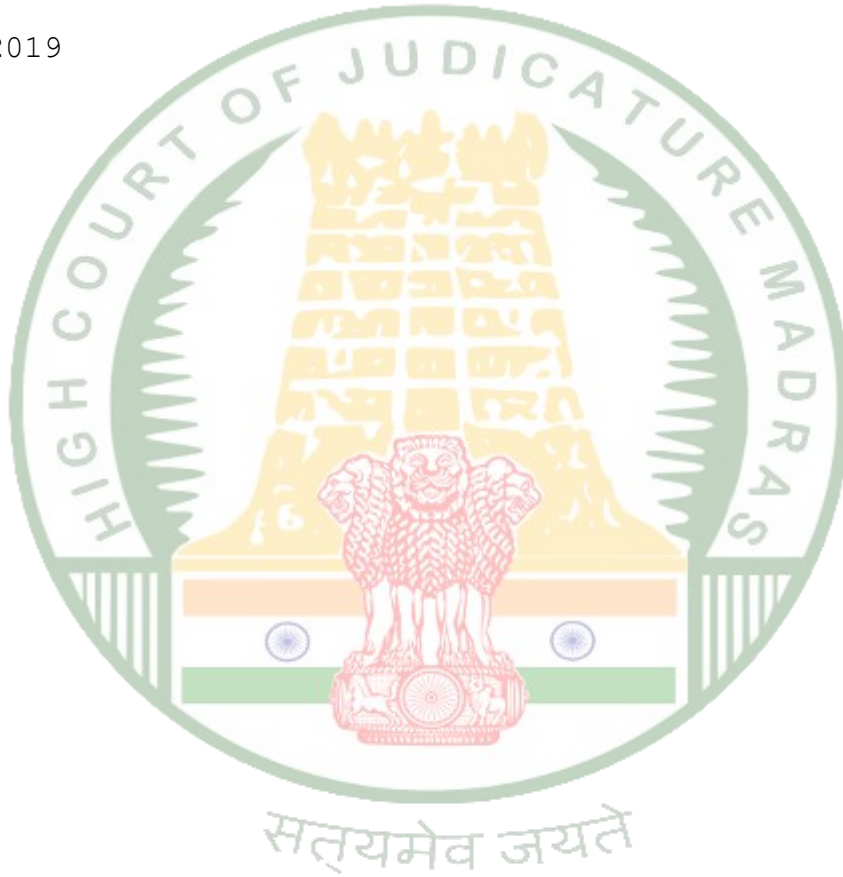
1. The Secretary to Government
Department of Micro Small
and Medium Enterprises
Government of Tamil Nadu
Secretariat, Chennai - 9.

2. The Managing Director
Tamil Nadu Small Industries
Development Corporation Limited
SIDCO, Thiru Vi Ka Industrial Estate
Guindy, Chennai - 32.

+1cc to Mr. A.R.Karunakaran, Advocate sr.no.25643
+1cc to Government Pleader sr.no.25740

W.P. NO.5909 OF 2019

kj (co)
nr 12/04/2019



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