

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
Writ Petition No.33731 of 2018

M/s.ABI Safety Wears Industries,
Represented by its Proprietor, T.Dhamodharan,
.. Petitioner

/versus/

1.The Tamil Nadu Small Industries Development Corporation
Ltd.,

Represented by its
Chairman and Managing Director,
Near SIDCO Electronics Complex,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

2.The Deputy General Manager(IE-II),
Tamil Nadu Small Industries Development Corporation
Ltd.,

Near SIDCO Electronics Complex,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

3.The Branch Manager,
Tamil Nadu Small Industries Development Corporation
Ltd.,

SIDCO Industrial Estate,
Gandhi Nagar, Vellore-632 006.

4.The Estate Officer,
Tamil Nadu Small Industries Development Corporation
Ltd.,

SIDCO Industrial Estate,
Gandhi Nagar, Vellore-632 006.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, to issue a Writ of Mandamus,
directing the 1st respondent to dispose of the
petitioner's representation dated 10.10.2018.

For petitioner : Mr.V.R.Mukunda Kumar
For Respondents : Mr.S.P.Prabhakaran
for R1, R2 & R4
Mr.A.S.Balaji for R3

O R D E R

Heard the learned counsel for the petitioner and the learned counsels for the respondents.

2 The petitioner herein was allotted a plot in SIDCO bearing shop No.37 vide allotment order dated 23.10.2008. As per the allotment order, the petitioner has to start the construction within a period of six months and commence the production within two years. However, the petitioner was not able to commence the construction within the time prescribed under the allotment order and therefore, the 3rd respondent herein has issued a show cause notice as to why the allotment should not be cancelled. For the said show cause notice dated 21.08.2012, the petitioner has given a representation seeking six months time to commence the construction. The six months time got expired by 03.09.2013. Therefore, notice under form A and B were issued. Challenging the same, the writ petitioner filed W.P.No.10495 of 2014, which was dismissed. Aggrieved by that, the writ petitioner filed a writ appeal wherein, the Division Bench has disposed the Writ Appeal with a direction.

3 The 3rd respondent has returned the sale consideration paid by the petitioner and cancelled the allotment. Against which, now the petitioner herein before this Court seeking relief on the ground that the 3rd respondent ought not to have cancelled the allotment and returned the sale consideration. The 3rd respondent has extended time for construction for all other allottees vide order dated 13.06.2017 seeking parity with the other allottees and he has given a representation dated 10.10.2018 to consider his request to revoke the cancellation order and extend time to complete the construction and commencement of production. Since the respondent has not passed any order on his representation, he has also encashed the cheque sent by the 3rd respondent before it could become invalid. Thereafter file the writ petition.

4 On notice, the learned counsel for the respondent appeared and submit that while the other allottees were granted two years time vide order dated 13.06.2017, as far as the petitioner is concerned he himself sought only six months time to comply with the condition. Having failed to put up construction to commence the business within stipulated time vide allotment order, the 3rd respondent has rightly cancelled the allotment and repaid the sale consideration. The petitioner has also encashed the money and therefore nothing survives on the representation of the petitioner dated 10.10.2018 for consideration.

5 After hearing the counsel for the petitioner and the respondent and on perusal of the documents filed along with the petition, this Court find that this petitioner has been isolated from the other allottees because he approached this Court by filing the writ petition No.10490 of 2014 and further perused Writ Appeal. When the other allottees were granted two years time from 13.06.2017 to 12.06.2019 to utilize the allotted plots, the petitioner herein ought not to have been deprived the relief of extension of time. Therefore, the 3rd respondent is hereby directed to receive back the sale consideration from the petitioner with interest at 12% from the date of realisation of cheque till date of payment and revoke the cancellation order. The petitioner herein shall commence the construction within six months from the date of issue of re-allotment order. No further time shall be granted to the petitioner for complying the condition (6) and (7) of the original allotment order.

6 With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rpl
To

1.The Chairman and Managing Director,
The Tamil Nadu Small Industries Development
Corporation Ltd.,
Near SIDCO Electronics Complex,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

2.The Deputy General Manager(IE-II),
Tamil Nadu Small Industries Development Corporation
Ltd.,
Near SIDCO Electronics Complex,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

3.The Branch Manager,
Tamil Nadu Small Industries Development Corporation
Ltd.,
SIDCO Industrial Estate,
Gandhi Nagar, Vellore-632 006.

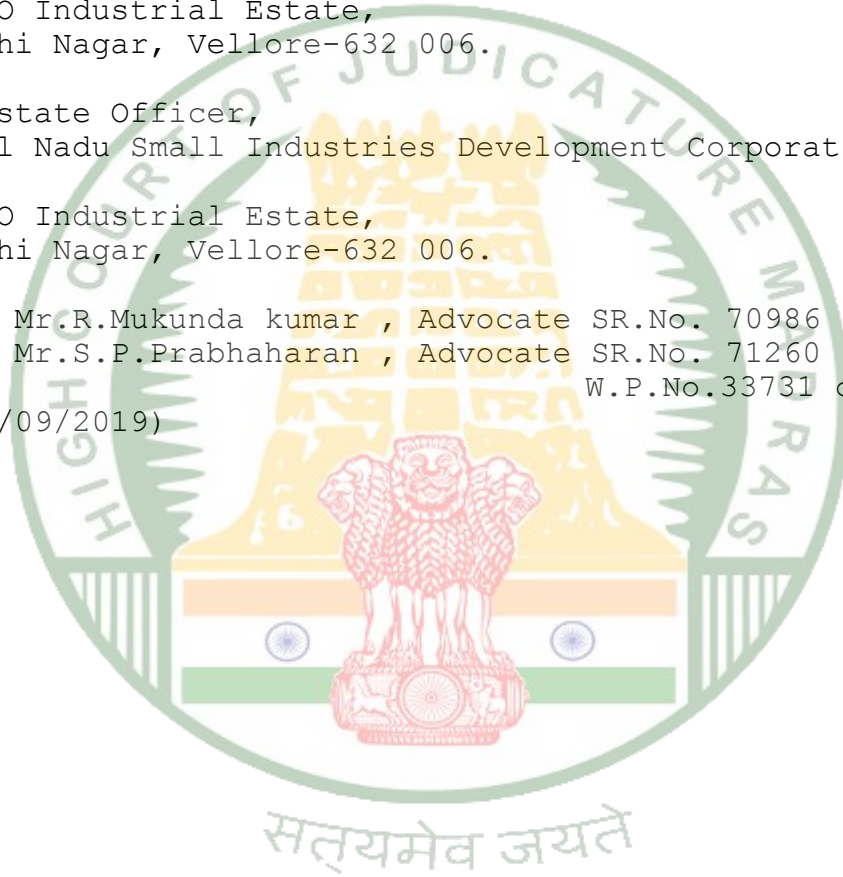
4.The Estate Officer,
Tamil Nadu Small Industries Development Corporation
Ltd.,
SIDCO Industrial Estate,
Gandhi Nagar, Vellore-632 006.

+1cc to Mr.R.Mukunda kumar , Advocate SR.No. 70986

+1cc to Mr.S.P.Prabhakaran , Advocate SR.No. 71260

W.P.No.33731 of 2018

A.SK(18/09/2019)



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