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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.A. (MD) .No.338 of 2019

and

C.M.P. (MD) .No.2678 of 2019

and

WP (MD) .19413 of 2016

The Secretary,
Madurai Marketing Committee,
Madurai Mattuthavani Paddy Commercial Complex,
Madurai. ... Appellant/Respondent

Vs.

R.Kanagaraj ... Respondent/Petitioner

Prayer:- Writ Appeal is filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.(MD).No.19413 of 2016, dated 01.10.2018.

Prayer in WP(MD). 19413/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the Respondent in Na.Ka.No.Aa2/297/2016 dated 17.06.2016 and to quash the same and direct the Respondent to execute sale deed with relating to shop No.192, situated at Madurai Mattuthavani Paddy Commercial Complex Building, Mattuthavani, Madurai -7, in favour of the petitioners concern JAIRAKS, within the time stipulated by this Honble Court.

For Appellant : Mr.A.Muthukaruppan
Additional Government Pleader
For Respondent : Mr.M.R.Srinivasan

J U D G M E N T

(Judgment of the Court was delivered by **K.KALYANASUNDARAM, J.**)

This writ appeal is directed against the order of the learned single Judge passed in W.P.(MD).No.19413 of 2016, dated 01.10.2018.



2. The respondent filed the writ petition challenging the rejection order of the appellant for transfer of the Shop No.192 in favour of JAIRAKS and authorising the partners to sign the sale deed.

3. The case of the writ petitioner was that the petitioner's JAIRAKS partnership firm was involved in manufacturing and marketing of Agro Chemicals and Pesticides in Tamil Nadu. When the appellant brought the shops constructed in Madurai Mattuthavani Paddy Commercial Complex Building, the petitioner's firm authorised one Thiru.S.Rajaram to apply for allotment of a shop and power of attorney was also executed in his favour.

4. The specific case of the writ petitioner was that the said Rajaram represented for the firm and a shop was allotted by the appellant, on 27.01.2006, however he left the firm on 31.11.2007 and thereafter, the firm had paid all the instalments regularly and thereafter, applied for transfer the shop in the name of the firm. But, it was rejected on the ground that the petitioner did not obtain no objection certificate from the said Rajaram.

5. The learned single Judge in Paragraphs - 10 to 13, had considered the entire aspect of the matter and held as follows:

"10. Inevitable conclusion that could be drawn in the present writ petition is that it is the petitioner's firm, to which the shop had been allotted and the said Rajaram was only acting as Power Agent at the relevant point of time being an employee of the firm as Marketing Manager. He, being only an employee of the firm and acted as Power Agent at the first instance of the firm, cannot stake any claim or right of allotment of the shop as against the petitioner's firm.

11. In any event, the said Rajaram having left the services of the petitioner firm in 2007 itself, it is not for the respondent to insist hat the petitioner firm should get No Objection Certificate from the said Rajaram in order to make allotment of the shop in favour of the petitioner firm.

12. From the documents made available in the writ proceedings, it is very clear that entire payments had been made only in the name of the petitioner firm and all the relevant documents stood in the name of the petitioner firm only.

13. In such view of the matter, this Court is unable to appreciate as to how the respondent committee can insist that the allotment being made only in favour of the petitioner's erstwhile employee Rajaram. The stand of the respondent is per se untenable and cannot be countenanced both on law or on facts."



6. Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the appellant would urge that the writ petition was filed without impleading the necessary party viz., the original allottee S.Rajaram and transfer of the shop in the name of the firm was sought without obtaining No Objection Certificate from him.

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7. Mr.M.R.Sreenivasan, learned counsel for the respondent made submissions in support of the finding of the learned single Judge.

8. We find no substance in the submission of the learned counsel for the appellant, since the records produced before the writ Court reveal that the said Rajaram acted as an agent and after he left the service, it would not be appropriate to insist the writ petitioner to get his no objection.

9. For the foregoing reasons, we are of the considering opinion that the appellant has not made out any grounds warranting interference with the order of the learned single Judge. In the result, the writ appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS)

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TO
The Secretary,
Madurai Marketing Committee,
Madurai Mattuthavani Paddy Commercial Complex,
Madurai.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 55092

W.A. (MD) .No.338 of 2019

15.03.2019

TR (05.04.2019) 3P 3C