

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.15218 OF 2020

Utpala Mukherjee

... Petitioner

Vs.

1. Tamil Nadu Small Industries Development Corporation Ltd.,
rep. by its Chairman and Managing Director
Paulwel's Road, Kathipara Junction, Chennai-16
 2. Estate Officer and Branch Manager
Tamil Nadu Small Industries Development Corporation Ltd
Administrative office Block
Industrial Estate, Ambattur, Chennai.
 3. The State of Tamil Nadu
rep.by Secretary to Government
Industries Department
Fort St.George, Chennai.
- ...Respondents

Prayer:-

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to execute the sale deed conveying Plot No.125 (SP), SIDCO Industrial Estates, Ambattur, Chennai 600 058, ad-measuring 9600 Sq.Ft of land to M/s.Pratik Alloys of which the petitioner is the sole proprietress as per the allotment order of the 1st respondent vide Ref. No.7081/1B-1/93 dated 25.03.1994.

For Petitioner : Mr.V.Selvaraj
for M/s.D.Jayasingh

For Respondents 1 & 2: Mr.J.Jaseem Mohammed
Standing Counsel

For Respondent-3 : Mr.E.Balamurugan
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the first respondent to execute the sale deed conveying Plot No. 125 (SP), SIDCO Industrial Estates, Ambattur, Chennai 600 058, ad-measuring 9600 Sq.Ft of land to M/s. Pratik Alloys, the petitioner, as per the allotment order of the first respondent dated 25.03.1994.

2. The subject property was originally allotted in favour of M/s.Pratik Alloys in the year 1994. Subsequently, the allotment was cancelled by the first respondent by proceedings dated 01.08.2008.

3. The case of the petitioner is that he has paid the entire cost of the plot and possession was also handed over to the petitioner and the factory was constituted therein and the production also commenced, but the sale deed was not executed in his favour by the first and second respondent corporation. The petitioner, therefore, made a representation dated 21.12.2017 to the respondents 1 and 2 requesting for the execution of sale deed in his favour. Since the same was not considered, the present writ petition has been filed before this Court, seeking for appropriate directions.

4. Heard Mr.V.Selvaraj, learned counsel appearing for the petitioner, Mr.Jaseem Mohammed, learned standing counsel appearing for first and second respondents and Mr.E.Balamurugan, learned Special Government Pleader appearing for third respondent.

5. The first and second respondent Corporation has taken a specific stand that since the extent of the property exceeds 5,000 sq.ft., the same has to be ratified by the Government and only thereafter, the sale deed can be executed in favour of the petitioner. The learned standing counsel appearing on behalf of respondent Corporation submitted that the ratification is still pending with the Government.

6. The learned counsel appearing for the Petitioner brought to the notice of this Court the orders passed by this Court in W.P.No.24616 of 2016 dated 01.08.2016. For proper appreciation, the relevant portions in the order are extracted hereunder:-

"2. The petitioner has filed this Writ Petition, praying for issuance of a writ of mandamus to direct the respondents to register the sale deed in favour of the petitioner, as per the 4/10 allotment order.

3. It is pointed out by the learned counsel appearing for the petitioner that, under identical circumstances, this Court has passed orders in W.P.No.26556 of 2015, dated 04.01.2016, in the case of M/s.Muktha Dye Chem Vs. Tamil Nadu Small Industries Development Corporation and others, and the operative portion of the order is quoted hereinbelow:-

"2. When the matter is taken up for hearing, learned counsel appearing for respondents 1 and 2 submitted that the issue of ratification is pending consideration with the 3rd respondent as seen from the Letter in Rc.No. 4385/IE5/2010 dated 28.01.2015 and both the counsel produced a copy of the order passed by this Court dated 08.12.2015 in W.P. No. 27946 of 2015 (Reji Varghese V. Tamil Nadu Small Industries Development Corporation Limited and another) wherein, it has been held as follows:-

"3. It can be easily visualised that some of the allottees had already got their plot registered by the authorities and necessary sale deeds had also been released. With regard to 470 allottees, now awaiting for the ratification to be done by the second respondent. There is no valid as well as legally sustainable reason for not granting the ratification as on date. There is also no impediment for the second respondent for ratifying the same, since the petitioner as well as the other allottees had already paid the enhanced plot value. For all these reasons, the second respondent is directed to pass necessary orders of ratification so as to register the sale deed as far as the petitioner is concerned within a period of four weeks from the date of receipt of a copy of this order. On such ratification, the first respondent is directed to register the sale deed and release the document if the petitioner complies other legal requirements towards registration of the sale deed. This writ petition is disposed of. No costs."

3. In such view of the matter, the writ petition is disposed of directing the 3rd respondent to pass appropriate orders with regard to ratification of allotments, as

requested by the 1st respondent vide letter No.Rc.no. 4385/IE5/2010 dated 28.01.2015 within a period of eight weeks from the date of receipt of a copy of this order. Based on the decision to be taken by the 3rd respondent, respondents 1 and 2 will have to take action accordingly. No costs."

4. The learned counsel appearing for the respondents 2 and 3 submits that the above order and direction has been implemented, and the sale deed has been executed.

5. In the light of the above, the Writ Petition is disposed of, by directing the first respondent to pass appropriate orders with regard to ratification of allotments, as requested by the respondents 2 and 3 within a period of eight weeks from the date of receipt of a copy of this order, and based on such decision, the third respondent shall take further action for the purpose of execution of the sale deed, as has been done in the case of M/s.Muktha Dye Chem, the decision referred above. No costs. "

7. The learned counsel for the petitioner by specifically pointing out to the portions of the order extracted supra submitted that pursuant to the above orders, the Government has ratified through G.O.Ms.No.8, dated 01.02.2017. The learned counsel, therefore, submitted that the respondent Corporation need not wait for any further ratification and they can proceed to execute the sale deed in favour of the petitioner, since the petitioner has already paid the entire amount and the petitioner is already in possession and enjoyment of the property.

8. The learned standing counsel appearing on behalf of the respondent Corporation in reply to the said submission stated that he is not very sure as to whether the Government order that was referred by the learned counsel for the petitioner, also covered the property belonging to the petitioner. The learned counsel submitted that if it does not cover the property belonging to the petitioner, necessary ratification has to come from the Government and only thereafter, the sale deed can be executed in favour of the petitioner.

9. Taking into consideration the facts and circumstances of the case and after carefully considering the submissions made on either side, this Court is inclined to dispose of this Writ Petition with the following directions:

(a) The petitioner is directed to make a fresh

representation to the first and second respondent along with all the necessary documents and also a copy of this order. The petitioner shall mark a copy of the fresh representation to the third respondent;

(b) The first and second respondent are directed to immediately consider the representation made by the petitioner on 21.12.2017 and also make a specific reference to G.O.Ms.No.8 dated 01.12.2017. If the respondents identify that the property belonging to the petitioner has also been ratified in the Government Order, necessary steps shall be taken to execute the sale deed in favour of the petitioner, after ensuring that the entire amount has been received from the petitioner. This process shall be completed within a period of six weeks from the date of receipt of a copy of this order; and

(c) If the first and second respondents find that the property belonging to the petitioner do not fall under G.O.Ms.No.8, dated 01.12.2017, they shall immediately take steps to get the ratification from the third respondent. In such an event, the third respondent is directed to pass necessary orders of ratification within a period of eight weeks from the date of receipt of a copy of this order. On receipt of the ratification order from the third respondent, the first and second respondents shall thereafter execute the sale deed in favour of the petitioner within a period of four weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

- 1 The Chairman and Managing Director
Tamil Nadu Small Industries Development Corporation Ltd.,
Paulwel's Road, Kathipara Junction, Chennai-16
- 2 Estate Officer and Branch Manager
Tamil Nadu Small Industries Development Corporation Ltd
Administrative office Block
Industrial Estate, Ambattur, Chennai.

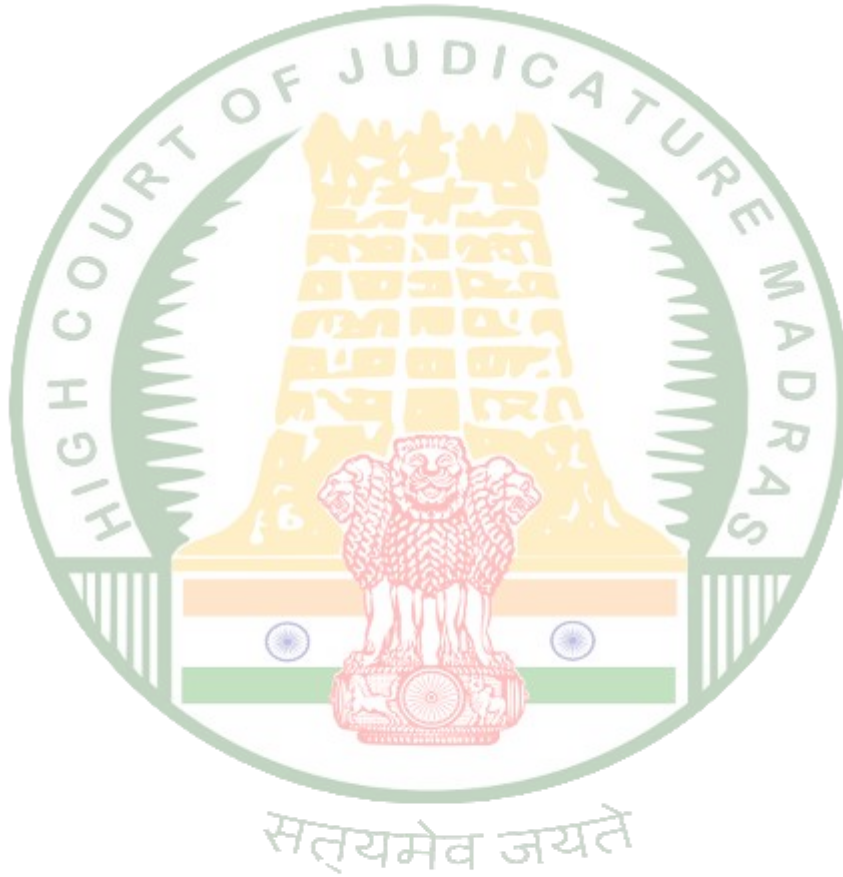
3 The Secretary to Government
The State of Tamil Nadu
Industries Department
Fort St. George, Chennai.

+1cc to Mr.J.Jaseem Mohammed, Advocate, S.R.No.39253

+1cc to the Government Pleader, S.R.No.39569

W.P.No.15218 of 2020

KV(CO)
CS/19/01/2021



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