

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :02.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.29548 and 31551 of 2019

W.P.Nos.29548 of 2019

Eshwari Petro Tech Products (P) Ltd.,
Represented by its Director,
A.K.Prameelaa,
Old No.18/A, New No.2, 4th Street,
Surendar Nagar, Adamabakkam,
Chennai 88. ... Petitioner

Vs.

1.The Secretary to Government,
Micro Small and Medium enterprises department,
Fort St. George, Chennai 09.

2.The Chairman/Managing Director,
Tamilnadu Small Industries Development Corporation,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai 58.

3.The Branch Manager,
Tamilnadu Small Industries Development Corporation,
Kakkalur Industrial Estate, Kakkalur,
Chennai 03. ... Respondents

Prayer: This Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the respondents to execute the sale deed in favour of the petitioner in respect of the Plot No.83, Kakkalur Industrial Estate as per the allotment order.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.E.Balamurugan(for R1)
Special Government Pleader
Mr.J.Jaseem Mohammed (for R2 & R3)
Standing counsel

W.P.Nos.31551 of 2019

M/s.Chidambaram Confectionery,
Represented by its Partner,
P.Ilayaraja,
No.84, SIDCO Industrial Estate, Kakakalur,
Thiruvallur District. ... Petitioner

Vs.

1.The Secretary to Government,
Micro Small and Medium enterprises department,
Fort St. George,
Chennai 09.

2.The Chairman/Managing Director,
Tamilnadu Small Industries Development Corporation,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai 58.

3.The Branch Manager,
Tamilnadu Small Industries Development Corporation,
Kakkalur Industrial Estate, Kakkalur,
Chennai 03.

... Respondents

Prayer: This Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the respondents to execute the sale deed in favour of the petitioner in respect of the Plot No.84, Phase-I, SIDCO Industrial Estate, Kakkalur, Thiruvallur District as per the allotment order.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.Mr.N.Inbanathan (for R1)
Additional Government Pleader
Mr.J.Jaseem Mohammed (for R2 & R3)
Standing counsel

COMMON ORDER

The issue involved in both these Writ Petitions are common and therefore, they are taken up together and this common order is passed.

2.The subject property was originally allotted in favour of M/s.Vijay Shree Chemicals and Sri Raghava Industries in the year 1992 and 1995 respectively. Subsequently, the allotment was transferred in favour of the petitioners by virtue of the allotment letters dated 21.03.2011 and 22.09.2010 respectively.

3.The case of the petitioners is that they have paid the entire amount and the sale deed was not executed in their favour by the 2nd respondent corporation. The petitioners, therefore, made a representation to the respondents requesting for the execution of sale deed in their favour. Since the same was not considered, the present writ petitions have been filed before this Court, seeking for appropriate directions.

4.Heard Mr.S.Sivakumar, learned counsel for the petitioner; Mr.Jassem Mohamed, learned standing counsel appearing for the 2nd and 3rd respondents in both the petitions; Mr.E.Balamurugan, learned Special Government Pleader appearing for the 1st respondent in W.P.No.29548 of 2019 and Mr.Arul Doss, learned Government Advocate appearing

for the 1st respondent in W.P.No.31551 of 2019.

5.The 2nd and 3rd respondents have filed counter affidavits and the specific stand taken by the respondent Corporation is 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 petitioners. 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 Petitioners 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 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 petitioners 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 petitioners, since the petitioners have already paid the entire amount and the petitioners are 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 petitioners, also covered the properties belonging to the petitioners. The learned counsel submitted that if it does not cover the

properties belonging to the petitioners, necessary ratification has to come from the Government and only thereafter, the sale deeds can be executed in favour of the petitioners.

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 both the Writ Petitions with the following directions:

(a) The petitioners are directed to make a fresh representations to the 2nd and 3rd respondents along with all the necessary documents and also a copy of this order. The petitioners shall mark a copy of the fresh representation to the 1st respondent.

(b) The 2nd and 3rd respondents are directed to immediately consider the representations made by the petitioners on 29.03.2016 and 21.03.2012 respectively 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 petitioners has also been ratified in the Government Order, necessary steps shall be taken to execute the sale deeds in favour of the petitioners, after ensuring that the entire amount has been received from the petitioners. 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 2nd and the 3rd respondents find that the property belonging to the petitioners do not fall under G.O.Ms.No.8, dated 01.12.2017, they shall immediately take steps to get the ratification from the 1st respondent. In such an event, the 1st 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 1st respondent, the 2nd and 3rd respondents shall thereafter execute the sale deeds in favour of the petitioners within a period of four weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Micro Small and Medium enterprises department,
Fort St. George,
Chennai-09.

2.The Chairman/Managing Director,
Tamilnadu Small Industries Development Corporation,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai 58.

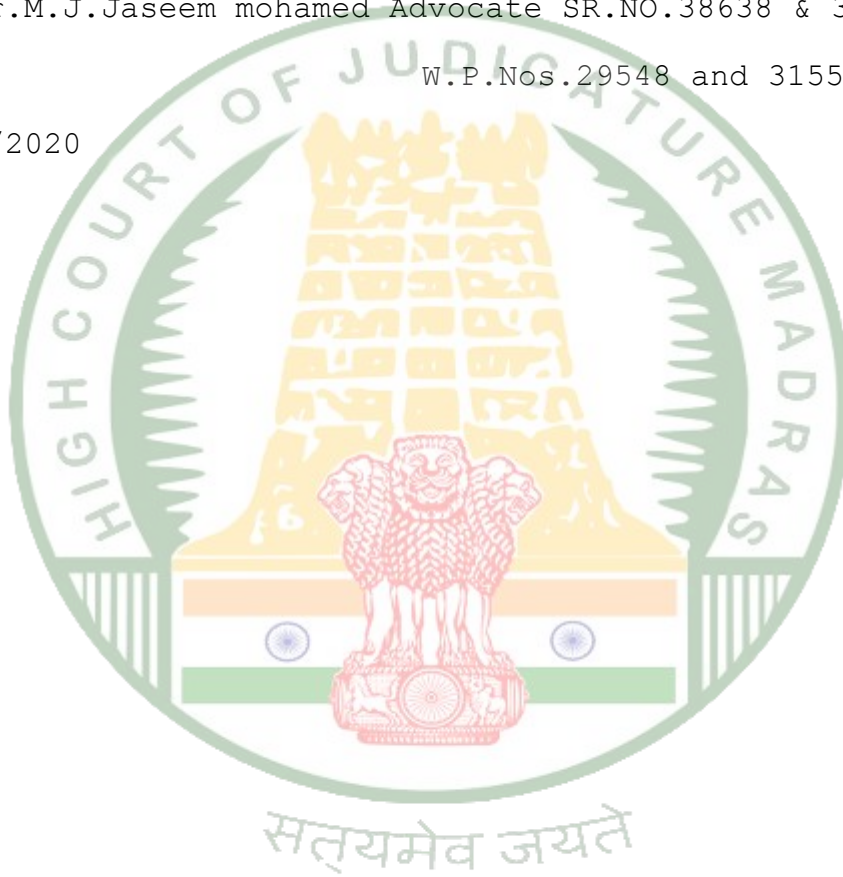
3.The Branch Manager,
Tamilnadu Small Industries Development Corporation,
Kakkalur Industrial Estate, Kakkalur,
Chennai 03.

+2cc to M/s.S.Sivakumar Advocate SR.NO.38618 & 38619

+2cc to Mr.M.J.Jaseem mohamed Advocate SR.NO.38638 & 38639

W.P.Nos.29548 and 31551 of 2019

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SDR 19/12/2020



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