

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.02.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24977 of 2017

M/s. Tamil Nad Steel Rolling Mills

A partnership firm represented

By its partner

Rajiv Malhotra, aged 48 yrs

Son of Sashikant Malhotra

1B, Sunflower Block,

3, Arunchalam Road,

Saligramam,

Chennai - 600 093.

...Petitioner

-vs-

1. The Chief Executive Officer,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2. M/s. Anup Tool Industries,
Unit -II,
Plot No.7(B),
Sengundram Industrial Area,
Maraimalai Nagar,
Chengalpet Taluk,
Kanchipuram District

...Respondent

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to hand back the possession of the Plot No.7(B) measuring 1608 sq.metres in Sengundram Industrial Area in Maraimalai Nagar, Chengalpet Taluk, Kanchipuram District to petitioner's firm Tamil Nad Steel Rolling Mills on the basis of petitioner's representation dated 16.07.2017.

For Petitioner

:Mr.S.Sudarshan

For Respondents

:Mr.Karthik Rajan
Standing Counsel [R1]
R2- No appearance

ORDER

Heard Mr.S. Sudarshan, learned counsel for the petitioner and Mr.Karthik Rajan, learned counsel for the 1st respondent. Though notice has been served on the 2nd respondent and their name has been printed in the cause list, none appears for the 2nd respondent.

2. With the consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. The petitioner seeks for issuance of a writ of mandamus to direct the respondents to hand over back the possession of the Plot No.7(B) measuring 1608 sq.meters in Sengundram Industrial Area in Maraimalai Nagar, Chengalpet Taluk, Kanchipuram District to the petitioner's firm Tamil Nad Steel Rolling Mills on the basis of the petitioner's representation dated 16.07.2017.

4. The petitioner is a partnership firm, which is granted an allotment of Industrial Plot at Maraimalai Nagar Industrial Estate promoted by the 1st respondent, CMDA vide order of allotment dated 06.11.1998. The order of allotment and the agreement signed between the parties contained various conditions. It is not in dispute that the petitioner has defaulted in payment of money in terms of the allotment agreement. It is not stated as to what happened in the matter after the demise of one of the partners of the firm. When the son of the deceased partner went to the premises in the year 2017, he was shocked to see that the 2nd respondent Unit was functioning in the said premises. This appears to be the basis of the dispute, which has ultimately culminated in the present writ petition.

5. The question would be as to whether the petitioner can now seek for a writ of mandamus, the answer should be against the petitioner and in the negative because of the fact that after the cancellation of the allotment in the year 2001, it has been re-allotted to the 2nd respondent and sale deed has been executed in favour of the 2nd respondent in the year 2013 and possession was handed over on 11.09.2013 on the petitioner's own saying, as could be seen from the representation dated 16.07.2017.

6. For the first time Mr.Naresh Malhotra S/o. Sashikant Malhotra visited the property in March 2017, by then the said developments have taken place and the 2nd respondent became the lawful owner of the property as possession of the same was

handed over by the 1st respondent CMDA.

7. That apart, in the counter affidavit filed by the 1st respondent, it is seen that the petitioner has also defaulted in repayment to M/s. City Union Bank, how have initiated proceedings against the petitioner before the Debt Recovery Tribunal.

7. Thus for all the above reasons the prayer sought for in this writ petition cannot be granted. Accordingly, the writ petition is dismissed. However, this will not in any manner prejudice the rights of the petitioner to defend the proceedings, which are now pending before the Debt Recover Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Chief Executive Officer,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.Karthik Rajan, Advocate, Sr.No.18708

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KK(CO)
GS(02/06/2020)