



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.11851 OF 2015

AND

M.P.NO.1 OF 2015

M/s.Sakthi Enterprises,
Rep. By its Partner,
Tmt.A.Madurai Meenatchi,
Tiny Shed No.257(SP),
Ambattur, Chennai - 600 058.

... Petitioner

.Vs.

The Branch Manager,
SIDCO Industrial Estate,
Administrative Block Building,
Ambattur, Chennai - 600 058.

... Respondents

PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records connected with the letters issued in Ref.Rc.No.682/A6/09 dated 17.11.2009 and Ref.Rc.No.682/A6/2009 dated 14.09.2010 passed by the respondent and quash the same and direct the respondent to give approval of change in constitution.

For Petitioner : Mr.S.Ilamvaludhi
For Mr.R.Naresh Kumar

For Respondent : No appearance

ORDER

The relief sought for in the present writ petition is to quash the order dated 17.11.2009 and 14.09.2010 passed by the respondent and direct the respondent to give approval of change in Constitution.



2. The petitioner states that, Tmt.A.Madurai Meenatchi and her husband Mr.C.A.Ashok Kumar were inducted as one of the partners of a business called M/s.Sakthi Enterprises along with one Tmt.V.P.Padmini. The business of the Company is manufacture of engineering components. Subsequently, Tmt.V.P.Padmini retired and thereafter the said Tmt.A.Madurai Meenatchi and her husband Mr.C.A.Ashok Kumar became full-fledged partners of the firm and they have registered themselves as M/s.Sakthi Enterprises in the Tamil Nadu Small Industries Development Corporation.

3. The grievances of the writ petitioner is that the Deed of Partnership Retirement Reconstitution dated 29.02.2008 was registered with the Registrar of Companies under the provisions of the Act. The said Deed of Partnership Retirement Reconstitution was submitted to the respondent for approval of change in Constitution. While considering the case of the petitioner, the respondent issued the impugned order by stating that there is an encroachment and the said encroachment is to be removed. In other words it is contended by the respondent that the petitioner have encroached the SIDCO land.

4. The learned counsel for the petitioner made a submission that the petitioner has not encroached any such land and the canals situated adjacent to the petitioner company is mistakenly construed as encroachment.

5. In any event, approval of change in the Constitution need not be linked with the encroachment. If at all there is an allegation of encroachment against the petitioner. The approval of change in the Constitution is to be considered based on the facts and circumstances and if any encroachment is identified by the Authorities, actions are to be initiated independently for removal of encroachment and merely stating in the impugned order, that the petitioner has encroached the land. They cannot reject the application submitted by the petitioner for approval of change in Constitution. The petitioner company has already registered with the SIDCO Industrial Estate and therefore the said application is to be considered independent.

6. Under these circumstances without reference to the allegation of encroachment against the petitioner, the application submitted by the petitioner seeking approval of change in Constitution is to be considered by the respondent by following the procedures as contemplated within a period of 8 weeks from the date of receipt of the copy of this Order.



7. With this direction, the writ petition stands disposed of. No Costs. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nti/vs

To

The Branch Manager,
SIDCO Industrial Estate,
Administrative Block Building,
Ambattur, Chennai - 600 058.

+1cc to Mr.R.Naresh Kumar, Advocate, S.R.No.58386

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GPL(CO)
PBS/29/11/2021