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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.25060 of 2012

and

M.P.No. 2 of 2012

G.Mohan

... Petitioner

Vs.

1. The Chairman and Managing Director,
Tamil Nadu Small Industries Development Corporation Ltd.,
Chennai - 16.
2. The Estate Officer and Branch Manager,
SIDCO, Ambattur, Branch Officer,
Industrial Estate, Ambattur,
Chennai - 58.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in Rc.No.5737/A7/90, dated 25.08.2011 passed by the second respondent and quash the same and consequently, direct the respondents to allow the petitioner to continue in the same premises.

For Petitioner : M/s.S.Ilamvaludhi

For Respondents : M/s.S.P.Prabhakaran

O R D E R

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in Rc.No.5737/A7/90, dated 25.08.2011 passed by the second respondent and quash the same and consequently, direct the respondents to allow the petitioner to continue in the same premises.

2. Originally, one Mr.K.B.Narayanan, was allotted Plot No.21J/1, by the respondent SIDCO. The petitioner states that he was a partner with K.B.Narayanan, Vasudevan and R.Gajapathy,



vide Partnership Deed dated 21.10.1974. After a period of 10 years, that is to say, on 15.09.1984, the petitioner submitted a letter stating that the partnership concern is running the business and requested the Chairman/Managing Director of the SIDCO to allot the plot in favour of the partnership firm and they are prepared to pay the land costs fixed by the SIDCO.

3. From the records, it is noted that on 13.12.1984, the original allottee namely, K.B.Narayanan had submitted a letter to the Deputy Manager, SIDCO, Industrial Estate, Ambattur, Madras - 600 058, to the effect that he was the original allottee and no other person can claim any right over the plot. Further, he would state that there was no Partnership Deed existing when the application for plot was made or when the plot was taken over. Even when the partnership deed was executed after a period of about 8 months of deliberation, after that, right to ownership has not been given to the firm or other partners, but, only permission was given to carry the business of the firm at the premises, subject to the agreement among all the partners and the firm was locked. Thereafter, the respondents have cancelled the allotment, vide Cancellation Order in Lr.No.59611/N2/84, dated 13.01.1986.

4. Subsequently, the petitioner had approached the Chairman/ Managing Director of the respondent Corporation on behalf of all the partners against the locking of the premises on 28.01.1991 and requested to reopen the lock. Thereafter, an action was initiated by the Estate Officer under Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975, and Form-A notice was issued. This notice addressed to K.B.Narayanan to his last known address, was returned and the petitioner acknowledged the letter dated 16.09.1994, perhaps at the business address. Again Form-B notice was issued on 10.11.1984. The petitioner acknowledged it on 16.11.1984. The notice addressed to K.B.Narayanan was returned and a special messenger deputed by the respondent Corporation also returned the letter stating that the said Narayanan could not be traced. There was no response from the petitioner to Form-B notice issued by the respondent. Hence, Possession Notices dated 30.05.1995 and 24.07.1995 were issued. Hence, the occupation of the petitioner was treated as an unauthorized and the notice was issued ordering eviction on 19.09.1997 and the respondent published it in the newspaper calling for applications for sale under tender-cum-auction basis, against which, the said Narayanan approached this Court this Court, vide W.P.No.15970 of 2002 and the same was dismissed on 11.07.2011. Thereafter, a letter was issued to the petitioner to handover the possession of the plot. The letter directing the petitioner to handover the plot is under challenge before this Court.



5. Heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

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6. From the materials placed before this Court and considering the totality of the circumstances, it is noted that the original allottee K.B.Narayanan entered into partnership deed with the petitioner and two other persons. According to K.B.Narayanan, the partnership deed was executed after about 8 months after allotment of the plot. The right of ownership was not transferred in favour of the firm or other partners, but, they were only permitted to carry on the business of the firm at the premises, subject to the agreement among all the partners.

7. It is inferred that the agreement might not have been acted upon and there was misunderstanding and according to K.B.Narayanan, other three partners have failed to honour the agreement and violated the terms and conditions of the partnership and hence, he withdrew from the partnership. It is also inferred that due to the misunderstanding, he had given a letter that he has no objection for the plot being resumed by the respondent/Corporation.

8. It is also relevant to note that even before the letter of surrender of the plot by the original allottee K.B.Narayanan, the partners represented by the petitioner submitted a letter for transfer of allotment or re-allotment in their favour, by letter dated 15.09.1984. In fact, it was followed by a Legal Notice dated 21.02.1991. The respondents have issued notice under Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975, but, the petitioner failed to respond. Had he responded in time, the course of action could have been different and the authority might have considered the request of the petitioner. Right or wrong, after allotment of the plot to K.B.Narayanan, the partnership firm, as admitted by the original allottee, was running the business. In spite of the eviction proceedings, the industry continued to be in possession of the plot and it has been running.

9. Now that, by the impugned communication, the petitioner is directed to handover the plot. Hence, the contention of the respondent/Corporation that they have unauthorizedly entered into the plot and re-occupied the plot, may not be correct. They continued to be in possession and continued to run the business from the beginning. The respondents have also issued public notice calling for applications for sale of vacant plot under tender-cum-auction basis. The petitioner has already submitted a letter on 15.09.1984 for allotting the plot on payment of land costs.



Anyway, the plot is going to be re-allotted to somebody else as per the prevailing rate as on today.

10. In that event, this Court is of the considered opinion that the consideration of the application submitted by the petitioner/partnership firm on 15.09.1984, which is still pending on the file of the respondents, shall be considered and appropriate orders be passed. In the event the respondents fix the costs as per the prevailing rate, the petitioner shall make the payment and get the allotment in their favour. On the other hand, if the respondents take a decision to sell it by way of public auction, the petitioner shall be considered on preferential basis.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The Chairman and Managing Director,
Tamil Nadu Small Industries Development Corporation Ltd.,
Chennai - 16.
2. The Estate Officer and Branch Manager,
SIDCO, Ambattur, Branch Officer,
Industrial Estate, Ambattur, Chennai - 58.

+1cc to M/s.S.Ilamvaludhi, Advocate, S.R.No.27900
+1cc to M/s.S.P.Prabhakaran, Advocate, S.R.No.27766

W.P.No.25060 of 2012
and M.P.No. 2 of 2012

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NSK/19/05/2022