



W.P. No. 19632 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 19632 of 2016

and

W.M.P. Nos. 16990 to 16992 of 2016

and

W.M.P. No. 13036 of 2021

M/s. Indo Arya Central Transport Ltd.,
Rep. by its General Manager,
Mahendra K.Misar,
P & A Building,
41, Sri Ganesh Nagar,
Kolathur,
Chennai - 600 099.

... Petitioner

-VS-

1. The Managing Director,
State Industries Promotion Corporation of Tamil Nadu Limited,
19-A, Rukmani Lakshmipathy Road,
Post Box No. 7223, Egmore,
Chennai - 600 088.

2. The General Manager - II,
State Industries Promotion Corporation of Tamil Nadu Limited,
19-A, Rukmani Lakshmipathy Road,
Post Box No. 7223, Egmore,
Chennai - 600 088.

3. The Project Officer,
Sipcot Industrial Complex,
Nilakottai,
Dindigul District.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relevant to the Order in No. DI/NLK/IACTL/2010 dated 24.08.2015 passed by the First Respondent and quash the same as illegal, improper, unreasonable and principles of natural justice and thereby direct the Respondents to restore the allotment order in D-I/NLK/IACTL/2010 dated 10.02.2010 passed by the First Respondent and enable the Petitioner to put up construction in the allotted property situated in Plot No. B-1 in the Sipcot's Industrial Complex at Nilakottai within the village limits of Pallapatty, Nilakottai Taluk, Dindigul District totally to an extent of 5.00 acres immediately.

For Petitioner : Mr. C.V.Kumar

For Respondents : Mrs. Sudharsana Sundar

ORDER

Heard Mr. C.V.Kumar, Learned Counsel for the Petitioner and Mrs. Sudharsana Sundar, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was allotted the land of an extent of 5.00 acres in Plot No. B-1 in SIPCOT Industrial Complex, Pallapatty Village, Nilakottai Taluk, Dindigul District by Proceedings in Ref. No. D-1/NLK/IACTL/2010 dated 10.02.2010 by the First Respondent and a registered lease-deed was also executed on 19.05.2010 in his favour in that regard. Though, according to the Respondents, the Petitioner is not co-operating for execution of rectification



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deed to correct certain errors in that lease-deed, it has failed to carry out mandatory obligations in that allotment order and lease-deed, as per details mentioned below:-

ALLOTMENT ORDER

Condition No. 3(viii):

The Allottee shall implement the project and commence commercial production within 30 months from the date of allotment order.

LEASE DEED

Clause No. 17:

The Allottee shall commence commercial production/trial production within 30 months from the date of allotment order. Failure will entail cancellation of allotment and forfeiture of total amount paid towards the extent allotted.

Clause No. 18:

The Allottee shall have to commence construction of building within six months from the date of allotment order and be completed the construction within 24 months from the date of allotment order.



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As the explanation submitted by the Petitioner in the reply dated 23.03.201 to the various show cause notices issued to it was not acceptable, the First Respondent by Proceedings No. DI/NLK/IACITL/2010 dated 24.08.2015 cancelled the allotment of the Petitioner and called upon him to execute surrender-deed and hand over possession of the plot within 15 days from the date of its receipt, failing which it was informed that action would be taken to resume possession of that land under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975, which is impeached in this Writ Petition.

3. This Court at the time of admission on 10.06.2016 had passed the following self-explanatory order:-

"2. It is submitted by the learned counsel for the petitioner that the petitioner has given an undertaking in the affidavit filed in this Writ Petition, undertaking to pay penalty and also commence and complete the construction, within a period of three month.

3. In the light of the above, the status quo which is prevailing as on date (10.06.2016), shall be maintained, until further order."

It is informed in the Counter-Affidavit dated 05.01.2021 filed by the Respondents along with the application to vacate the stay in W.M.P. No. 13036



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of 2021 that despite such undertaking, the Petitioner has neither commenced any construction in that property nor remitted the penalty due by it till then. In this context, reference must be made to the ruling of the Hon'ble Supreme Court of India in ***Prestige Lights Limited -vs- State Bank of India*** [(2007) 8 SCC 449] where it has been observed as follows:-

"24. An order passed by a competent court - interim or final - has to be obeyed without any reservation. If such order is disobeyed or not complied with, the court may refuse the party violating such order to hear him on merits. We are no unmindful of the situation that refusal to hear a party to the proceeding on merits is a "drastic step" and such a serious penalty should not be imposed on him except in grave and extraordinary situations, but sometimes such an action is needed in the larger interest of justice when a party obtaining interim relief intentionally and deliberately flouts such order by not abiding by the terms and conditions on which a relief is granted by the court in his favour."

That apart, the Hon'ble Supreme Court of India in the decision in ***Indu Kakkar -vs- Haryana State Industrial Development Corporation Ltd.*** [(1999) 2 SCC 37] has highlighted that the allotment making authority would be justified in resuming the plot from the allottee who cannot claim any right to remain in



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occupation without performing his obligation to utilize that property for industrial purpose for which avowed object it has been established. Viewed from this perspective, when the Petitioner has not availed the various opportunities granted by the Respondent to commence industrial activities in the plot, no useful purpose would be served by keeping it idle without taking any action for the eviction of the Petitioner from there. As such, there does not appear to be any infirmity in the impugned order in No.DI/NLK/IACITL/2010 dated 24.08.2015 passed by the First Respondent warranting interference by this Court in the exercise of discretionary powers of judicial review of the decision making under Article 226 of the Constitution, and the Petitioner is not entitled to the relief claimed.

In the result, the Writ Petition, which is devoid of merits, is dismissed. The order dated 10.06.2016 passed in W.M.P. No. 13036 of 2021 is vacated. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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vjt
Index: Yes/No

Note: Issue order copy by 31.07.2023.



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P.D. AUDIKESAVALU, J.

vjt

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