



W.P.No.32977 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.08.2022

PRONOUNCED ON : 28.10.2022

CORAM:

THE HON'BLE MR.JUSTICE S.SOUNTHAR

W.P.No.32977 of 2015

and

M.P.Nos.1 and 2 of 2015

M.Desia Seelan

...Petitioner

vs.

1. The Tamil Nadu Small Industries
Development Corporation Ltd.,
Rep. by its Chairman and Managing Director,
having registered office at
Thiru Vi. Ka Industrial Estate,
Near SIDCO Electronics Complex,
Guindy, Chennai-600 032.

2. The Branch Manager,
SIDCO Industrial Estate,
Krishnagiri

..Respondent

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue writ of certiorarified mandamus to call for the records relating to the impugned order of the 2nd respondent order dated 07.07.2014



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in Rc.No.602/C/2010 of the 2nd respondent and order dated 27.08.2015 in Rc.No.602/C/2010 and quash the same and direct the respondents herein to forthwith execute the sale deed in favour of the petitioner herein respect of plot No.33, with an extent of 15.53 cents at Industrial Estate Bargur.

For Petitioner : Mr.AR.L.Sundaresan (Senior Counsel)
for M/s.A.L.Ganthimathi

For R1 and R2 : M/s.M.J.Jaseem Mohamed

ORDER

The writ petitioner has filed this writ petition challenging the order of the 2nd respondent dated 07.07.2014 and consequential order dated 27.08.2015 whereunder the petitioner was directed to pay revised land cost relevant to the year 2013-14.

2. According to the writ petitioner he is an allottee of Industrial plot No.33 in Industrial Estate, Bargur. The allotment was made to the petitioner on 30.03.2012. The extent of the plot allotted to him was 0.150 acre. As per the allotment order, the tentative cost of the plot was fixed at the rate of Rs.34,10,300/- per acre. Therefore, the tentative cost of the plot allotted to the petitioner whose extent is 0.150 acre was fixed at Rs.9,03,800/-. The allotment



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order make it clear that Rs.9,03,800/- is tentative cost of the developed plot allotted to the petitioner and he must pay 25 % of the cost of the plot namely Rs.1,27,900/- within two months from the date of issue of allotment order and the remaining 75% of the tentative cost namely Rs.3,83,700/- shall be paid within six months from the date of allotment order. The petitioner paid the balance amount of Rs.75% of the tentative cost only on 29.04.2013 and the possession of the plot was handed over to him. Subsequently, the petitioner was issued with the impugned order of the 2nd respondent whereunder he was directed to pay a further sum of Rs.11,70,940/- along with penal interest towards the land cost relevant to the year 2013-14. Aggrieved by the same, the petitioner has come up with this writ petition.

3. The learned counsel for the petitioner assailing the impugned order submitted that as per the allotment order the tentative cost of the plot was Rs.34,10,300/- per acre. But as per the impugned order, the cost of the plot inflated to Rs.1.09 Crore per acre. The learned counsel submitted that the petitioner has paid entire tentative cost and hence he is not liable to pay any more amount. He further submitted that in any event, increase of the plot cost



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to nearly three times is not acceptable and the same is arbitrary one. The learned counsel further submitted that the petitioner was not issued with any prior notice before making demand for increased plot cost.

4. Per contra, the learned counsel for the respondent by drawing the attention of the Court to condition mentioned in the allotment order that the cost mentioned therein was only tentative and the same subject to the revision based on land cost to be fixed by the Government. The learned counsel also relied on the clause in the allotment order that the decision of the TANSIDCO with regard to the fixation of the final price is final and binding on the allottee and he shall pay the same without demur.

5. Heard the arguments of the learned counsel for the petitioner and the respondent and perused the records.

6. The close scrutiny of the allotment order would suggest that the cost of the plot mentioned therein is only a tentative cost. The relevant portion of the allotment order reads as follows:



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“1 (a) The tentative cost of the developed Plot(s) is Rs.5,11,600/- at the rate of Rs.34,10,300/- (Rupees Thirty four lakhs ten thousand and three hundred only) per acre which is inclusive of SIDCO's Administrative Charges the cost is valid upto 31.03.2012. The allotment order is issued at the tentative land cost, as the land cost for the year 2011-12 is finalized, the same will be intimated to the allottee and the difference in land cost, if any, should be paid by the allottee to SIDCO.

b) The tentative cost of the Developed Plot shall be paid in the manner indicated below.

- 1. 25% of the cost developed plot of Rs.1,27,900/- (Rupees one lakh twenty seven thousand nine hundred only) shall be paid within two months from the date of issue of this order. No further extension of time will be granted for payment of plot cost after expiry of two months from the date of issue of this order.*
- 2. 75% of the cost developed plot of Rs.3,83,700/- (Rupees Three lakhs Eighty three thousand seven*



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hundred only) shall be paid within six months from the date of issue of this order.”

The cost is subject to revision based on the land cost to be fixed by the Government. Further if the erstwhile owners of the land acquired for the above estate happen to go to civil court appealing against the award passed by the Land Acquisition Officer and the Courts pass a decree or decrees in their favour, the extra compensation that has to be aid thereon by this office and also due to extraneous unavoidable circumstances in the increased rate of taxes or cost of development and provision of amenities, it will be made good from the allottees by revising the cost of the plots.”

7. The allotment order specifically says the cost of the plot is only tentative cost and the land cost for the year 2011-12 is yet to be finalized. It further reads as and when the land cost for the year 2011-12 is finalized, the same will be intimated to the allottee and the difference in land cost, if any, should be paid by the allottee to TANSIDCO. It further says, if the respondent is made to pay extra compensation to the erstwhile land owners whose lands



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were acquired, the difference in cost shall be made good by the allottees by

revising the cost of the plots.

8. Therefore, the respondent is entitled to revise the cost of the plot only on two grounds.

1. After the cost of the plot for the year 2011-12 is finalized he can demand extra amount.
2. Where any extra compensation amount is paid in pursuance of the award passed by the land acquisition Tribunal to erstwhile owners, proportionate extra cost can be recovered from the allottees.

9. In the case on hand, the impugned order suggest that the petitioner was directed to pay a further sum by adopting the land cost for the year 2013-14. The same is on the face of it unsustainable, in the light of the condition mentioned in the allotment order. The allotment order clearly suggest that the allotment order is issued at tentative land cost as the land cost for the year 2011-12 is yet to be finalized. As and when the land cost for the year 2011-12 is finalized, the same would be intimated to the allottee. Therefore, the



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respondent is entitled to claim extra amount only if the demand of extra amount is made while finalizing land cost for the year 2011-12. But in the case on hand, the respondent demanded extra amount by revising the land cost relevant to the year 2013-14. The same is not permissible even as per the condition stipulated in the allotment order. Therefore, the demand made by the respondent by revising the land cost relevant to the year 2013-14 is unsustainable in law and hence the same is liable to be quashed.

10. The learned counsel for the respondent submitted that there was delay on the part of the petitioner in depositing of 75% of the cost of the plot. It was further submitted the allotment order was made on 30.03.2012 and he has to pay the remaining 75% of the cost of the land within six months namely before 30.09.2012. But, however the petitioner paid the remaining amount only on 29.04.2013.

11. The further reading of the allotment order make it clear, if there is any delay in payment of the remaining cost by the allottee, he shall pay the



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same together with interest at the rate of 13% per annum or at such rate as may be fixed by TANSIDCO for the defaulted period. The petitioner paid the remaining 75% of the cost Rs.3,83,700/-, of-course with a delay on 29.04.2013 but together with interest at the rate of 13% for the period from 01.10.2012 to 29.04.2013 (210 days). He paid a sum of Rs.1,08,460/- (Rs.1,01,086/- towards 75% of the remaining cost + Rs.7374/- interest at the rate of 13% for the defaulted period). Therefore, he paid the balance amount with penal interest as per the terms of allotment order on 29.04.2013 and subsequently, the Memorandum Of Understanding was entered into between the petitioner and the respondent on 18.07.2013 and the possession of the plot was handed over to the petitioner on 05.09.2013. Therefore, the respondent is not justified in making further demand based on land cost for the year 2013-14 which is not permissible as per the terms of the allotment order issued by it. Therefore, the impugned order passed by the 2nd respondent demanding a further sum of Rs.11,70,940/- based on the land cost for the year 2013-14 is quashed. However, it is open to the respondent to finalize the plot cost relevant to the year 2011-12 and proceed further in accordance with the allotment order.



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12. In the result, the writ petition is allowed as indicated above.

Connected miscellaneous petitions are closed. No costs.

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Index : Yes / No
Internet : Yes/ No
Speaking/Non-speaking Order
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To

1. The Tamil Nadu Small Industries
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Near SIDCO Electronics Complex,
Guindy, Chennai-600 032.
2. The Branch Manager,
SIDCO Industrial Estate,
Krishnagiri

S.SOUNTHAR, J.
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