



W.P.No.3692 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. No.3692 of 2013

and

M.P.No.1 of 2013

K.Sangeetha

... Petitioner

Vs

- 1.The Principal Secretary /
Chairman and Managing Director,
State Industrial Promotion Corporation of
Tamil Nadu Limited (SIPCOT),
19-A, Rukmani Lakshmipathy Road,
Chennai - 600 008.
- 2.The Project Officer,
SIPCOT Industrial Complex,
Gummidipoondi.
- 3.The Assistant Director,
Director of Town and Country Planning
Chengalpattu Division,
13, Varadharasanar Street,
Vedhachalam Nagar, Chengalpattu - 1.
- 4.The Member Secretary,
Gummidipoondi Local Planning Authority
Chengalpattu,
13, Varadharasanar Street,



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Vedhachalam Nagar, Chengalpattu - 1.

... Respondents

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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order Ref. No.DII/ SICG/ 665/ TWS/ 2008 dated 21.01.2013, on the file of the 1st respondent, quash the same and consequently direct the 1st respondent to obtain DTCP approval for the layout and Plot No.R-12 in SIPCOT Industrial Estate Gummidipoondi.

For Petitioner : Mr.Mani Sundargopal

For R2 : Mr.Mr.Sudarshana Sunder

For R3 : Ms.C.Meera Arumugam
Additional Government Pleader

For R4 : Mr.P.Chinnadurai

ORDER

The petitioner has filed this writ petition for issuance of a Writ of Certiorari Mandamus, to call for the records relating to the order Ref. No.DII/ SICG/ 665/ TWS/ 2008 dated 21.01.2013, on the file of the 1st respondent, quash the same and consequently direct the 1st respondent to obtain DTCP approval for the layout and Plot No.R-12 in SIPCOT Industrial Estate, Gummidipoondi. By the impugned order, the petitioner has been called upon



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to surrender Plot No.R-12 in SIPCOT Industrial Estate, Gummidipoondi, which was allotted to the petitioner during 2008.

2.Learned counsel for the respondents 2 & 3 submits that the petitioner knew very well that the Plot No.12 measuring an extent of 2.5 acres in Survey No.328 part, 332 part & 333 part at Pappankuppam, Village was not part of the approved layout of SIPCOT, yet opted for the same and did not deliberately commence the construction. It is submitted that for the larger part of the land, the approval was granted in the year 2008 and that the allotment was made in favour of the petitioner with a rider subject to approval of DTCP. It is further submitted that as per G.O.M.S.No.169, Industries (MIE2) Department dated 12.09.1996, the petitioner was entitled to commence the construction and since the petitioner did not commence construction, the impugned order cancelling the allotment was issued by directing the petitioner to surrender the plot.

3.The fourth respondent in its counter has stated as follows:

"It is submitted that while applying permission by the petitioner



to the 4th respondent, the proposed industrial layout of SIPCOT was not approved layout. Hence, the proposal for building permission was returned. At present, a technical approval has been given to the SIPCOT industrial lay out vide No.Ma.Va/DTCP.68/2013."

4. I have considered the arguments of the learned counsel for the petitioner and learned counsel for the respondents 1, 2, 3 & 4 and I have also perused the counter affidavit filed on behalf of the respondents.

5. The petitioner was initially allotted an extent of 2.5 acres land for a total consideration of Rs.75,00,000/- in the year 2008. At the time of allotment vide communication dated 31.12.2008, it was categorically stated that the allotted land was subject to pending approval from DTCP. The respondents 1 & 2 in their counter in Para 12 have categorically stated that DTCP approval was obtained only on 24.11.2014 i.e. after the present Writ Petition was filed. It is submitted that initially an approval was obtained in the year 2008 and revised proposal was made in the year 2008 itself. The Government Order which have been referred to by the second respondent in G.O.M.S.No.169, Industries (MIE2) Department dated 12.09.1996, read as hereunder :



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"Entrepreneurs setting up Small Scale, Medium Scale and Large Scale Industries have been representing that they lost a lot of time in getting their building plans approved by the local bodies. It appears that in many instances, the local bodies themselves do not have the authority and they will have to send the plans for approval of the Town Planning Department and wherever the plinth area is more than 2,000 sq.ft. plans are referred to the Directorate of Town Planning at the headquarters. All these lead to delay in getting the approval and hardships for the entrepreneurs. As time goes by, there will be escalation of price of construction materials and the projects also get delayed. The Government have carefully considered all the above complaints and representations and have not decided to simplify the plan approval procedure. It has been decided that it is enough if the entrepreneur submit the necessary applications for plan approval to the appropriate authorities. They need not wait for the approval of those plans before beginning the construction. The applications should be accompanied by a certificate from a Chartered architect or a Civil Engineer registered with the concerned local body conforming that the plan is not violating any rules or regulations, including the zoning regulations under the Town and Country Planning Act, 1971. This permission to begin the construction straight away



is being given on condition that later on, if it is found that the building as constructed violates any rules or regulations, that portion of the building will be demolished immediately. the applicant should enclose with his application form, an undertaking to subject himself to the condition that he would agree to get the portion of the building demolished, if it is found that the building violates any rules or regulations.

2. It is expected that the entrepreneurs would appreciate the trust the Government have placed in them and behave in a responsible fashion making this new experiment successful and advantageous both for the Government and themselves.

3. This order issues with the concurrence of Small Industries Department (vide U.O.No.48(A)/Secy./96-1 28-8-96, Housing & Urban Development Department (vide U.O.No.247/Secy./96 dated 28-8-96) and Municipal Administration & Water Supply Department (vide U.O.No.100/S.MA & WS)/96 dated 2-9-96"

The facts are recorded clearly bringing out the fact there is no approval of the layout when the land was allotted to the petitioner. Unless the layout was



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approved under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner could not have commenced the construction on the strength of G.O.M.S.No.169 Industries (MIE2) Department dated 12.09.1996. It would have been a different if the layout was already approved and the petitioner delayed to commence the construction. Facts on record would clearly indicate that only approval has been granted on 24.11.2014 after the impugned communication after filing of this Writ Petition. The fourth respondent has also confirmed that the petitioner could not have commenced the construction without approval for the layout and therefore, the plan was returned on 08.02.2013.

6. Therefore, I do not find any mistake on the part of the petitioner in not commencing the construction. Even if there was delay on the part of the petitioner in commencing the construction, the petitioner could not have proceeded with the construction solely on the strength of G.O.M.S.No.169 Industries (MIE2) Department dated 12.09.1996. Therefore, I am inclined to allow this Writ Petition. Accordingly, the impugned order G.O.M.S.No.169 Industries (MIE2) Department dated 12.09.1996 is quashed and the petition



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stands allowed. No costs. Consequently, connected Miscellaneous Petition is

closed.

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mtl

Index : Yes/ No

Internet : Yes/No

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8/12



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Chengalpattu,
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C. SARAVANAN, J.

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At the instance of the learned counsel for the second respondent, this case is listed under the caption “ for being mentioned”. There is no representation on behalf of the petitioner.

2. I find merits in the submission of the leaned counsel for the second respondent, as the writ petition has been filed challenging the impugned order dated 21.01.2013 bearing Reference No.DII/SICG/665/TWS/2008 of the first respondent. Therefore, in the last sentence in paragraph No.6 reference to “G.O.Ms.No.169 Industries (MIE2) Department dated 12.09.1996” is to be substituted with “the impugned order dated 21.01.2013 bearing Reference No.DII/SICG/665/TWS/2008 of the first respondent”. Accordingly, the last sentence is to read as follows:-

“Accordingly, the impugned order dated 21.01.2013 bearing Reference No.DII/SICG/665/TWS/2008 of the first respondent is quashed”.

08.11.2022

Jas/kkd

Note: Registry is directed to carry out necessary corrections



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and issue a fresh order copy to the parties.

C.SARAVANAN,J.

Jas/kkd

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08.11.2022