



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.6076 of 2015

Sidhique Razack

.... Petitioner

Versus

- 1.The General Manager,
Tamil Nadu Small Industries Development
Corporation Limited,
TANSIDCO New Corporate Office,
Thiru vi ka Industrial Estate,
Guindy,
Chennai - 600 032.
 - 2.The State of Tamil Nadu
Represented by its Director of Industries and Commerce,
Chepauk,
Chennai - 600 005.
 - 3.The Revenue Divisional Officer,
Thiruvallur,
Thiruvallur District.
 - 4.The Tahsildar,
Ambattur,
Tiruvallur District
 5. Gowtham Chand Surana
 6. Leela Kanvar Surana
 7. Pawan Kumar Surana
 8. The District Collector,
Tiruvallur District.
 9. The District Revenue Officer,
Tiruvallur District.
- Respondents

R5 to R7 are impleaded as per Order dated 19.07.2016
in WMP No.21191 of 2016

R8 & R is suo-motu impleaded as per order dated
20.09.2016.



Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the 1st respondent to deliver vacant possession of the Plot No.59-D SIDCO Industrial Estate, Chennai - 98 measuring about 60 cents free from encumbrance and trespass in favour of 1) Mrs.Noorjahan Razack, 2) Razia Razack, 3) Sumayya Razack, 4) Rafiya Razack and 5) Sidhique Razack on any date to be fixed by this Court after removing the trespass and thereafter atleast two years time may be given to start industrial activities of the petitioner in the above Plot.

For Petitioner : Mr.Balan Haridoss

For Respondents: Mr.M.J. Jaseem Mohammed for R1
Mr.G. Nanmaran, Spl. GP for RR2-4, 8 & 9
Mr.N.Pragasam for RR6 & R7

ORDER

This writ petition has been filed for a direction to the 1st respondent to deliver vacant possession of the Plot No.59-D SIDCO Industrial Estate, Chennai - 98 measuring about 60 cents free from encumbrance and trespass in favour of 1) Mrs.Noorjahan Razack, 2) Razia Razack, 3) Sumayya Razack, 4) Rafiya Razack and 5) Sidhique Razack on any date to be fixed by this Court after removing the trespass and thereafter atleast two years time may be given to start industrial activities of the petitioner in the above Plot.

2. The case of the petitioner is that originally his father was allotted Plot No.59-D SIDCO Industrial Estate, Chennai - 98 measuring about 60 cents in the year 1972 and after effecting payment, possession was taken over by his father. Thereafter, his father died on 02.06.1982 leaving behind the Legal Heirs. That being so, when his mother approached the 1st respondent for mutation of records, she has been directed to produce succession certificate. In the meanwhile, the authorities of Revenue Department sent a notice to his mother and aggrieved by the said notice, Writ Petition in W.P. No.2682 of 1988 has been filed. It is averred that all of a sudden, the said allotment was cancelled for non utilisation of the plot for the purpose allotted vide order dated 22.06.1988. Aggrieved by the said cancellation, W.P. No.8422 of 1988 has been filed. Subsequently, on 19.06.1988 both the writ petitions were dismissed by way of a common order.

3. Aggrieved by the said common order, Writ Appeal has been preferred and this Court allowed, by way of common judgment dated 06.10.2009, the writ appeals in W.A. Nos.905 and 906 of 1998. Aggrieved over the said order, SLP was preferred by the



1st respondent in C.C. Nos.3926 and 3927 of 2010 and the same were dismissed on 29.03.2010. Pursuant to the SLP order, the 1st respondent effected allotment in favour of the petitioner and his family members. In spite of making necessary payment on their part, the petitioner was shocked to note that northern portion of his property was encroached upon and compound wall was constructed. Thereafter, it came to his knowledge that the said property was acquired by some other parties, by way of patta without any title. In such circumstances, this writ petition has been filed seeking for the relief supra.

4. Mr.Balan Haridoss, learned counsel for the petitioner vehemently argued that in spite of the petitioner obtaining favourable orders from this Court as well as the Hon'ble Supreme Court, yet, till date, the petitioner is not able to take possession of the lands, though he made payments for the said lands. He further submits that the encroachers in the said land are tenants and the said land was acquired by third parties by virtue of Sale Deed dated 15.07.2011 registered in SRO, Villivakkam, Chennai, on the basis of forged documents. He also submits that in collusion with the purchasers and vendors the aforesaid sale deed was registered, without any title deed, which is non est in law. Hence, he prays this Court to issue direction to the respondents to take steps to remove the encroachers from the said land, within a time frame and thereafter implement the order passed by the Hon'ble Supreme Court, by giving extension of period of two years to the petitioner to commence industrial activities in the said land.

5. Per contra, Mr.G. Nanmaran, learned Special Government appearing for the respondents 2 to 4 and 8 and 9 submits that in pursuance to the orders of the Hon'ble Supreme Court, the 1st respondent has transferred the said allotment of Plot No.59-D (NP) at Industrial Estate, Ambattur in favour of the petitioner and his family members vide proceedings dated Rc. No.11104/1E-6/1998, dated 31.12.2013. He fairly conceded that the vendors Tmt.J.Sarasa and others have relied upon a patta purported to have been issued by the Deputy Tahsildar, Ambattur Taluk. He further submitted that title to the property cannot be decided by the revenue authorities as the Civil Court alone is empowered to declare title to the property in dispute. Hence, he prays for issuance of appropriate orders to give quietus to the issue.

6. Heard the learned counsel on either side and perused the materials placed on record.

7. Admittedly, in the year 1972, the father of the petitioner was allotted Industrial plot and due payments were made by him. Thereafter, lay out and elevation plan were approved in the year 1974. At the time of levelling the plot



for development, the petitioner's father died on 02.06.1982. The above facts are not in dispute. It is an admitted fact that pursuant to the orders in SLP, the 1st respondent issued proceedings regarding transfer of allotment of said plot in favour of the petitioner and his family members and due payments were made.

8. It is fairly conceded that in the lands, which were transferred to the petitioner, the northern portion of the property is fenced by way of a compound wall by some other persons, thereby, the property of the petitioner, which has been allotted by the respondents has been encroached. In spite of the orders of the Hon'ble Apex Court way back in the year 2010, the petitioner, till date, is running from pillar to post, to resolve the issue on hand. When the land has been sold by means of title deed and patta has been issued, the issue can only be agitated before the civil court, as it has to be ascertained under what provisions of law, the patta has been issued to the third parties, who have alienated the property. Without affording an opportunity to the said third parties and without there being a deliberation made by the civil court as to the title of the property, this Court, sitting under Article 226 of the Constitution cannot enter into disputed questions of fact. Though it is an admitted fact that the petitioner succeeded in the SLP which paved the way for the land being allotted in favour of the petitioner, yet when there exists a dispute with regard to the land, the relief to the petitioner with regard to title and possession as also patta lies before the competent civil court.

9. In view of the facts as narrated above, this Court, without going into the merits of the matter issues direction to the respondents 1 to 3 to identify the plot of petitioner No.59-D SIDCO Industrial Estate, Chennai - 98 measuring about 60 cents and hand over the same to the petitioner, after affording opportunity to rival parties, if any, within a period of twelve weeks from the date of receipt of a copy of this order. If any encroachers are found, the respondents 1 to 3 are at liberty to take action against them by following due process of law.

10. With the aforesaid direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vsi2



To

1. The General Manager,
Tamil Nadu Small Industries Development
Corporation Limited,
TANSIDCO New Corporate Office,
Thiru vi ka Industrial Estate,
Guindy,
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2. The Director of Industries and Commerce,
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4. The Tahsildar,
Ambattur,
Tiruvallur District

5. The District Collector,
Tiruvallur District.

6. The District Revenue Officer,
Tiruvallur District.

+1cc to Mr.N.Pragasam, Advocate, S.R.No.11756
+1cc to Mr.Balanharidas, Advocate, S.R.No.11843
+1cc to the Special Government Pleader, S.R.No.12028

W.P. No.6076 of 2015

SKM(CO)
SB(28/03/2022)