



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2022

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.7100 of 2009

Microttrol Sterlization Services Private Limited,
A Company registered under the Companies Act, 1956,
and having their registered office at Kirpalani Estate,
Saki Vihar Road, Mumbai - 400 072,
Rep. by its Authorized Signatory

: Petitioner

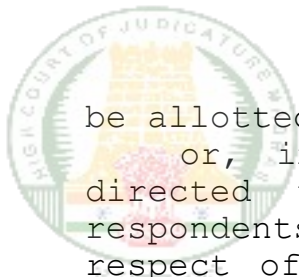
Vs.

1.The Union of India,
Through the Secretary,
Ministry of Shipping and Major Ports,
New Delhi.

2.The Chairman,
Tuticorin Port Trust,
A Statutory Corporation, having Office at
Tuticorin Port,
State of Tamil Nadu.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari or Writ of Mandamus to call for the records and proceedings and relating to the allotment of the land to the petitioner, pursuant to the letter dated 15.07.2000 and the letter dated 30.05.2008 relating to the refusal of the respondents to allot suitable alternate land and or the refund of the amount paid to the respondents towards the lease rent, premium and security deposit of the said land allotted to them and after perusing the records and proceedings, considering the legality or otherwise of the acts of the respondents, to quash and set aside the same and to order or direct the respondent no.2 to allot suitable alternative land within the vicinity of the Tuticorin Port Trust, of not less than 2000 Square meters or thereabouts, on the same terms and conditions on which 2000 Square meters of land was allotted to the petitioner by or based on the respondent no.2 letter dated 15.07.2000 and further order the respondent no.2 to adjust the lease rent, premium and security deposit already collected from the petitioner towards the lease rent of the land to



be allotted from the date of handing over of possession thereof;
or, in the alternative, the respondent no.2 be ordered and directed to refund a sum of Rs.6,50,000/- collected by the respondents by way of lease rent, premium and security deposit, in respect of the said land which was allotted to the petitioner of which the possession was not given, with interest thereon at 12% per annum from the respective dates on which the payment was made till the realization to the petitioner.

For Petitioner :Mr.Varghese Prem

For Respondents :Mr.S.Jeyasingh
Central Government Standing Counsel
for R.1

Mr.V.R.Shanmuganathan
for M/s.S.Yaswanth
for R.2

O R D E R

The petitioner before this Court is a Private Limited Company, carrying on the business of Sterilization of export commodities, including spices and disposable medical devices. They had submitted a tender to the Tuticorin Port Trust on 13.04.1998 for allotment of 2000 sq.meters of land for setting up a sterilization and warehousing facility, in the port area. In the tender process, the petitioner was selected and was given allotment vide order of the second respondent / Port Trust dated 15.07.2000. They have also paid a sum of Rs.6,24,249/-, on various dates, as directed by the Port Trust.

2.The grievance of the petitioner is that despite paying the lease rent and other payments, as demanded by the Port Trust, the possession of the 2000 sq.meters of land, as allotted, was not handed over to them, for one reason or the other. In this regard, they have made several representations and copies of representations dated 28.11.2002, 11.12.2002 were also enclosed in the typedset of papers. Despite their repeated efforts, they were not given possession of the land, instead, the Port Trust has provided them an alternative site, for the reason that the land which was actually allotted in favour of the petitioner was later taken over by the Neyveli Lignite Corporation Limited. According to the petitioner, the alternative site provided by the Port Trust in the year 2002 was not in the specified dimension, which was earlier agreed upon and as such, the ingress and egress of their containers would not be possible. Therefore, they have sought for an alternative site, which was also not considered. As a result, neither they were given possession of the land nor they were given refund of the amount, that was actually paid by them. Hence, the present writ petition.



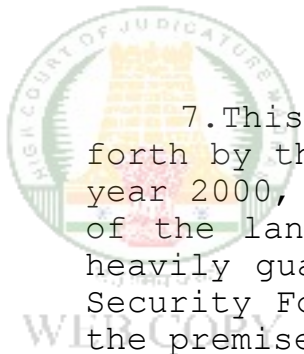
3.Mr.Varghese Prem, learned Counsel appearing for the petitioner reiterated the facts of the case and submitted that till now, no alternative site was provided to them by the Port Trust and due to passage of time, the petitioner has established a sterilization unit in Rajapalayam by investing huge amount. Therefore, he seeks for a direction to the second respondent to refund the amount collected with interest @ 12% per annum, from the date of deposit till the date of refund.

4.Mr.V.R.Shanmuganathan, learned Counsel appearing for the second respondent / Port Trust submitted that the land was allotted to the petitioner as early as on 15.07.2000 and that the petitioner has not taken possession. In the year 2002, a plot was shown to the petitioner, however, they have declined to accept the same. He further submitted that vide letter dated 14.08.2007, the petitioner was asked to take possession of a new plot admeasuring 2000 sq.metres, as agreed in the tender process, however, the petitioner, vide letter dated 17.08.2007 requested for extending the allotted area, which, after due deliberations, was dismissed by the Board. Even today, they are ready to allot the area with the agreed (specified) dimensions. It is the petitioner, who has failed to take possession and therefore, he prayed for dismissal of this writ petition.

5.This Court paid it's anxious consideration to the rival submissions and also perused the documents placed on record.

6.It is not in dispute that the petitioner participated in the tender process and was selected and allotted with an area admeasuring 2000 sq.meters for establishing a warehouse in the port area, vide allotment letter dated 15.07.2000. The petitioner has also paid a sum of Rs.6,24,249/-, on various dates, as demanded by the Port Trust, as follows:-

Payment Date	Particulars
13.04.1998	Tender made by the petitioner along with Rs.25,000/-
16.10.2000	The petitioner deposited DD a) Advance lease Rent (1 year) - Rs,97,260/- b) Premium Lease Rent (1 year) - Rs.97,260/- c) Security Deposit (1 year) - Rs.97,260/- ----- Rs.2,91,780/- -----
23.02.2002	DD Paid - Rs.1,08,680/-
25.11.2002	Payment made - Rs.1,09,007/-
03.10.2003	Payment made - Rs.1,14,782/-
	Payment made so far - Rs.6,49,249/-



7.This Court is not inclined to accede to the submission put forth by the respondents Board that after the allotment order in the year 2000, it is the petitioner, who has to take over the possession of the land. The area allotted is inside the Port Trust, which is heavily guarded by security personnel, including Central Industrial Security Force, etc., and as such, the petitioner cannot enter into the premises. It is the respondents Corporation, which have to allot a particular space, specifying the boundaries and then only, with their authorization, the petitioner can enter the area.

8.The fact remains that till 2002, the petitioner was not even shown with any plot. In the year 2002, they were shown with a plot, however, it was not in the specified dimension, as agreed in the tender. Since the petitioner firm is involved in sterilization works, the ingress and egress of their containers would be affected and that apart, since the agreed dimensions were not provided, they have not taken over the area. The petitioner cannot be found fault with for this and therefore, they are entitled for the relief sought for.

9.It appears that, by letter dated 14.08.2007, the respondents have provided an area to the petitioner, as per the specified dimensions, however, the petitioner, instead of taking over the same, has asked for extended area. This request, after deliberations, was rejected by the respondents Corporation. Therefore, whatever relief the petitioner is entitled to, it is only upto 14.08.2007 and on and from the said date, the respondents / Port Trust cannot be found fault with for the petitioner in not taking over the area, for the reason that they have provided the area which was specified in the tender.

10.Though the petitioner has made a twofold prayer, one is to allot a suitable area and on the alternative, to refund the amount, during the course of arguments, learned Counsel for the petitioner submitted that the petitioner has established a new sterilization unit in Rajapalayam and therefore, they are pressing the prayer for refund alone.

11.In view of the discussions supra, this Court holds that the petitioner is entitled for the relief of refund of Rs.6,24,249/- [Excluding the initial deposit of Rs.25,000/- along with the Tender]. For having retained the amount without allotting the land, this Court is of the view that the petitioner is entitled for the relief with interest at the rate of 6% per annum.

12.Accordingly, this writ petition stands disposed of, with a direction to the respondents / Port Trust to refund the sum of Rs.6,24,249/- [Rupees Six Lakh Twenty Four Thousand Two Hundred and Forty Nine only], to the petitioner, with interest at the rate of 6% per annum, from the date of deposit of the respective amounts till the entire amount should be refunded within a period of



twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)

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To

- 1.The Secretary,Union of India,
Ministry of Shipping and Major Ports,
New Delhi.
- 2.The Chairman,
Tuticorin Port Trust,
A Statutory Corporation, having Office at
Tuticorin Port,
State of Tamil Nadu.

+1 CC to M/s.S. JEYASINGH, Advocate (SR-16960[F] dated 06/04/2022)

+1 CC to M/s.S.MICHEAL HELDON KUMAR, Advocate (SR-17050[F] dated 07/04/2022)

W.P(MD)No.7100 of 2009

06.04.2022

MGJ(28.04.2022) 5P 5C