



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2022

CORAM:

THE HONOURABLE **MR. JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.11131 of 2022

and

WMP(MD) No.7977 of 2022

WEB COPY

K.Vellaichamy

.. Petitioner

Vs

1. The Branch Manager

Tamil Nadu Small Industries Development
Corporation Limited,
Thondi Road, Sivaganagai- 630 561

2. The Chairperson and Managing Director

Tamil Nadu Small Industries Development
Corporation Limited,
SIDCO Corporate Office Building,
Thiruvika Industrial Estate,
Guindy, Chennai- 600032.

3. K.Sasikala

Branch Manager,
Tamil Nadu Small Industries Development
Corporation Limited,
Thondi Road, Sivaganagai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of impugned show cause notice in Proc. No.29/B/2019 dated 28.05.2022 on the file of the first respondent and quash the same and further direct the respondents to issue cancellation order dated 06.05.2022.

For Petitioner : Mr.G.Prabhu Rajadurai

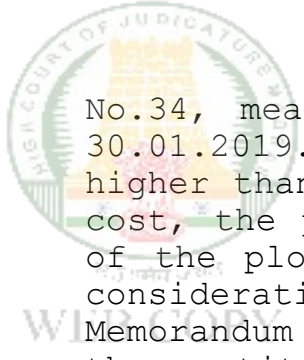
For Respondents : Mr.T.Sakthikumaran

No.1 and 2 Standing Counsel.

ORDER

This Writ Petition has been filed to quash the impugned show cause notice dated 28.05.2022 issued by the first respondent and further direct the respondents to issue cancellation order dated 06.05.2022.

2. The contention of the petitioner is that the petitioner is a Post Graduate in Commerce and he is suffering from 80 % Loco Motor disability. The Government of Tamil Nadu has developed an Industrial Estate known as, 'SIDCO Industrial Estate' within the limits of Surakulam Panchayat, Sivaganagai Taluk. The petitioner applied for a plot in SIDCO Industrial Estate, to run a small business. The petitioner with an intention to establish LPG Gas station, applied for allotment of plot by an application dated 04.12.2018. Considering his application the second respondent allotted Plot

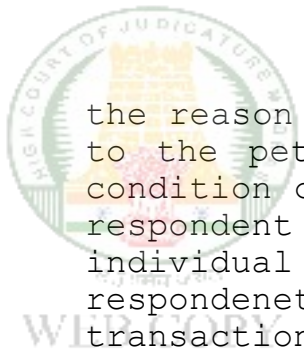


No.34, measuring 36 cents, within the said Industrial Estate, on 30.01.2019. The price of the commercial plot is about 1.5 times higher than that of the developed plot and on such payment of extra cost, the plot was converted to commercial plot and the total cost of the plot is Rs.31,05,000/-. The petitioner has paid the entire consideration and upon receiving the entire consideration a Memorandum of Understanding entered on 25.01.2021 and thereafter, the petitioner started cleaning the said plot and obtained Electricity connection and other connections.

3. Thereafter due to Covid-19 pandemic situation, the entire Country was struck and he was unable to finalise the proposal to avail LPG gas station. The petitioner applied for change of business which is permissible, but only after obtaining order from the authorities, he could have changed his business. The petitioner's wife was allotted a land in the same SIDCO industrial area and she had some dispute for which she has filed WP(MD) No.15402 of 2020, wherein this Court has ordered status quo insofar as the petitioner's wife petition. The officials of the respondent got enraged and assumed the petitioner's wife has filed the writ petition at the instance of the petitioner. For that reason, a show cause notice was issued to the petitioner on 01.04.2022 stating that the petitioner has violated the allotment order clause (3) (5) (IX) (7) (IV), calling upon the petitioner to submit his explanation. Thereafter, the petitioner challenged the same in WP(MD)6553 of 2021 and later it was withdrawn on 11.04.2021 giving liberty to the petitioner to reply for the show cause notice and to raise all his contentions therein, for which the petitioner has sent reply on 16.04.2022. The petitioner was under the hope that the petitioner's reply would be considered. Since nothing was heard from the officials, the petitioner considered that show cause was dropped. The petitioner on 31.05.2021 received a notice dated 28.05.2021 under Rule 3 of the Tamil Nadu Public Premises Eviction of Unauthorised Occupant Rules, 1978. In that notice it is recorded that the allotment given to the petitioner has been canceled by order dated 06.05.2022, which is against the principles of natural justice. Further, proceeds on a premise that the the petitioner had executed sale agreement with one Vijayakumari on 17.09.2020 for a small portion in Plat No.34@ 20 lakhs for five cents, which is in violation.

4. In the reply the petitioner has categorically given reason that it was only an unregistered document for the purpose of raising loan for Rs.6 lakhs from the said Vijayakumari, which has been repaid. Further, it is a practice, whenever loan is given, documents are executed, it is only a name sake document for security for loan and nothing else. The property was not alienated or shared with third persons. Encumbrance certificate would prove that no encumbrance has been created on the property allotted to the petitioner and the reason given by the petitioner has not been considered .

5. The petitioner was not called for enquiry or <https://hcservices.courts.gov.in/> sought no personal hearing was granted. Further,



the reason for cancellation was not given and it was also not served to the petitioner. Finding that the petitioner had violated the condition of allotment had cancelled the allotment order. The third respondent has been unnecessarily arrayed as respondent in his individual capacity and there is nothing to show that the third respondent has acted in the individual capacity in the entire transaction. He fairly submitted that the cancellation of the allotment order dated 06.05.2022 has not been served to the petitioner.

6. In view of the same, the petitioner, in reply, admitted that he had entered into agreement of sale with one Vijayakumari for the purpose of security, a local money lender, which itself give the ground for cancellation of allotment order and by following the office procedure, the allotment order has been cancelled.

7. Considering the submission and perusal of the material, it is seen that the petitioner has signed the document for the purpose of taking loan as sale agreement with one Vijayakumari and now the petitioner submits that the loan amount has been repaid. It is an unregistered sale agreement, which according to the petitioner has been cancelled and has become stale. Further it is seen that the cancellation order dated 16.05.2022 has not been served to the petitioner. The petitioner is a handicapped person, which is not in dispute and due to Covid-19, inconvenience has been caused to several persons. Financial projection has gone way back and more so, in the case of entrepreneurs.

8. This Court finds that principles of natural justice has not been followed and the petitioner was not given an opportunity of being heard pursuant to the show cause and his reply before cancellation of the allotment order.

9. In view of the above this Court set aside the cancellation of allotment order dated 06.05.2022 directing the authorities to proceed from the stage of reply notice given to the petitioner. The respondent, after affording an opportunity of hearing to the petitioner, pass appropriate orders, on merits and in accordance with law. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS III)

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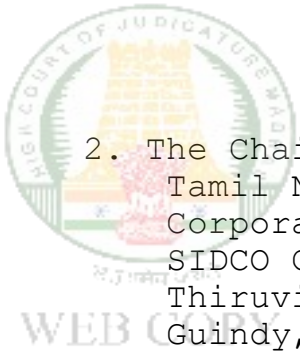
Sub Assistant Registrar(CS)

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To

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<https://hcservices.ecourts.gov.in/hcservices>



2. The Chairperson and Managing Director
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+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-24933[F] dated
09/06/2022)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-24987[F] dated
10/06/2022)

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MGJ(24.06.2022) 4P 5C