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W.P. Nos. 19852 and 21184 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 19852 and 21184 of 2013

and

M.P. Nos. 1 and 1 of 2013

W.P. No. 19852 of 2013:-

1. P.Sellamuthu (Deceased)
2. Muthulakshmi
3. S.Sugunadevi
4. S.Suriyakumar
5. S.Chandrakumar
(P2 to P5 substituted as LR's of the deceased sole
Petitioner vide order dated 30.08.2022 made in W.M.P.
No. 16180 of 2022 in W.P. No. 19852 of 2013)

... Petitioners

-VS-

1. The Chairman and Managing Director,
M/s. Tamil Nadu Small Industries Development
Corporation Ltd.,
Thiru-Vi-Ka Industrial Estate,
Near SIDCO Electronics Complex,
Guindy,
Chennai – 600032.



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2. Branch Manager,
SIDCO-Trichy,
Industrial Estate,
Ariyamangalam,
Trichy – 620101.

3. The Assistant Engineer (Service and Maintenance),
Tamil Nadu Electricity Board,
Perambalur Division,
Perambalur.

4. The President,
Elumbalur Village Panchayat,
Elumbalur Taluk,
Perambalur District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the communication by the Second Respondent Branch Manager to the Petitioner dated 10.07.2013 bearing R.C. No. 682/D/06 and quash the same holding it unreasonable and arbitrary and consequently directing the First and Second Respondents SIDCO authorities to immediately provide all necessary contractual infrastructure and to surrender the common area and the internal roads to the Fourth Respondent Panchayat enabling the Petitioner to obtain plan approval for his building and three phase electricity connection from the Third Respondent E.B. Officials.

W.P. No. 21184 of 2013:-

1. P.Sellamuthu (Deceased)
2. Muthulakshmi
3. S.Sugunadevi



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4. S.Suriyakumar

5. S.Chandrakumar

(P2 to P5 substituted as LR's of the deceased sole
Petitioner vide order dated 30.08.2022 made in W.M.P.
No. 8553 of 2022 in W.P. No. 21184 of 2013)

... Petitioners

-VS-

1. The Chairman and Managing Director,
M/s. Tamil Nadu Small Industries Development
Corporation Ltd.,
Thiru-Vi-Ka Industrial Estate,
Near SIDCO Electronics Complex,
Guindy,
Chennai – 600032.

2. The General Manager,
M/s. Tamil Nadu Small Industries Development
Corporation Ltd.,
Thiru-Vi-Ka Industrial Estate,
Near SIDCO Electronics Complex,
Guindy,
Chennai – 600032.

3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Perambalur Division, Perambalur North
Naanku Road (Four Roads),
Thuraimangalam Post,
Perambalur Taluk,
Perambalur District – 621220.

4. The President,
Elumbalur Village Panchayat,
Elumbalur Taluk,
Perambalur District.

5. Branch Manager,
SIDCO-Trichy,
Industrial Estate,
Ariyamangalam, Trichy – 620101.

... Respondents



W.P. Nos. 19852 and 21184 of 2013

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the cancellation order passed by the Second Respondent General Manager dated 10.05.2013 bearing R.C. No. 9459/1E-3/2007 and quash the same holding it unreasonable and arbitrary and consequently directing the First, Second and Fifth Respondents SIDCO authorities to immediately provide all necessary contractual infrastructure and to surrender the common area and the internal roads to the Fourth Respondent Panchayat enabling the Petitioner to obtain plan approval for his building and three phase electricity connection from the Third Respondent E.B. Officials.

For Petitioners
in both W.Ps : Mr. P.T.Perumal

For Respondents
in both W.Ps : Mr. S.Karthikei Balan (for R1 & R2)

No appearance (for R3 & R4)

C O M M O N O R D E R

Heard Mr. P.T.Perumal, Learned Counsel for the Petitioners and Mr. S.Karthikei Balan, Learned Counsel for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Original Petitioner, viz., P.Sellamuthu, was allotted Plot Nos. 58, 68/69 measuring an extent of 0.869 acre situated in Elambalur SIPCOT Industrial Estate, Elambalur by the First Respondent in Proceedings No. 9459/F1/07 dated 19.06.2009, which contained the time schedule for payment of installments and other conditions of the allotment of the industrial plot. Since the Original Petitioner did not carry out his obligations by remitting the installments promptly and utilizing the plot, the First Respondent by Proceedings in RC.No. 9459/E-3/2007 dated 10.05.2013 cancelled the allotment of the said plot, forfeited the earnest money deposit of Rs. 1,000/- and called upon the Petitioner hand over the plot to the Second Respondent, failing which it has informed that the plot would be resumed under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975 (hereinafter referred to as 'the TNPP Act' for short), which is assailed in this Writ Petition in W.P. No. 21184 of 2013.

3. The Second Respondent, as Estate Officer under the provisions of the TNPP Act then sent notice in Form-A under Rule 3 of the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Rules, 1978 (hereinafter referred to as 'the TNPP Rules' for short) to the Original Petitioner to show cause within 10 days as to why an order of eviction should not be passed



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against him under Section 4 of the TNPP Act Original Petitioner. At that stage,

the Original Petitioner made a representation dated 03.07.2013 to the Second Respondent to re-call the order of cancellation of allotment of the plots giving details of the installments paid by him and explaining difficulties faced in commencing construction in it, as an explanation to that show cause notice issued to him. The Second Respondent by Proceedings in R.C. No. 682/D/06 dated 10.07.2013 rejected the request made by the Original Petitioner in his representation and called upon the Petitioner to comply with the requirements in the cancellation order. The said order has been challenged in W.P. No. 19852 of 2013 and this Court at the time of its admission on 19.07.2013 had passed an order of interim stay of operation of Form-B notice, which continues to be in force till date.

4. Since the Original Petitioner died on 22.06.2019 after the filing of the Writ Petitions, his wife and children, viz., Muthulakshmi, Sugunadevi, Suriyakumar and Chandrakumar, have been substituted as the Petitioners in the Writ Petitions in his place by orders dated 30.08.2022 in W.M.P. Nos. 8553 and 16180 of 2022 passed by the Court.

5. The Hon'ble Supreme Court of India in the decision in ***Indu Kakkar -vs-***



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Haryana State Industrial Development Corporation Ltd. [(1999) 2 SCC 37]

has highlighted that the allotment making authority would be justified in resuming the plot from the allottee who cannot claim any right to remain in occupation without performing his obligation to utilize that property for industrial purpose for which avowed object it has been established. Viewed from this perspective, the Petitioner has not been able to demonstrate any error in the decision-making process leading to the Proceedings in RC.No. 9459/E-3/2007 dated 10.05.2013 (impugned order in W.P. No. 21184 of 2013) warranting interference by this Court in the exercise of its discretionary powers under Article 226 of the Constitution.

6. However, after receipt of the aforesaid order dated 10.05.2013 from the First Respondent, the Original Petitioner had made a representation dated 03.07.2013 to the Second Respondent to re-call the order of cancellation of allotment of the plots giving details of the installments paid by him and explaining difficulties faced in commencing construction in it, but the Second Respondent has rejected it without any discussion on that request made by Proceedings in R.C. No. 682/D/06 dated 10.07.2013 (impugned order in W.P. No. 19852 of 2013), which cannot be sustained and it is consequently set aside remitting the matter for fresh determination.



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7. In view of the foregoing discussion, this Court without expressing any view on the merits of the controversy, passes the following order:-

- (i) the Order in Proceedings RC.No. 9459/E-3/2007 dated 10.05.2013 (impugned order in W.P. No. 21184 of 2013) passed by the First Respondent is upheld;
- (ii) the Order in Proceedings R.C. No. 682/D/06 dated 10.07.2013 (impugned order in W.P. No. 19852 of 2013) passed by the Second Respondent is set aside and the matter remitted for fresh determination to the concerned authority;
- (iii) the concerned authority shall immediately examine the representation dated 03.07.2013 made by the Original Petitioner including ascertaining as to whether the Petitioners, as the legal representatives of the Original Petitioner, who has died after the filing of the Writ Petition, would be entitled for the relief claimed in it;
- (iv) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioners requiring the same to be furnished within a time frame of not less than 10 clear working days for the same;
- (v) in the event of not being satisfied with the requirements even thereafter,



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an enquiry shall be conducted affording full opportunity of personal hearing to all persons concerned including the Petitioners to explain their position in that regard;

- (vi) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated to the concerned persons under written acknowledgment; and
- (vii) the First and Second Respondents shall defer further action in pursuance of the Order in Proceedings RC.No. 9459/E-3/2007 dated 10.05.2013 till the aforesaid exercise is completed.

In the result, the Writ Petition in W.P. No. 21184 of 2013 is dismissed and the Writ Petition in W.P. No. 19852 of 2013 is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

09.11.2023

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Index: Yes/No
NCC : Yes /No

Note: Issue order copy by 22.05.2024.

To



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P.D. AUDIKESAVALU, J.

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