



W.P.No.6052 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.6052 of 2023 and
W.M.P.No.6062 of 2023

SRC Projects Private Limited,
Represented by its Chief Executive and
Managing Director,
Dr.M.Mahudeswaran,
having office at
4-B Lakshmipuram,
Gandhi Road, Salem – 637 007.

... Petitioner

Vs

1.The Revenue Divisional Officer,
Kamaraj Nagar, Omalur Taluk,
Salem – 636 455.

2.The Tahsildar,
Omalur Taluk,
Salem – 636 455.

3.The Zonal Deputy Tahsildar,
Omalur Taluk,
Salem District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarifid Mandamus calling for the records of the online rejection of the Application for Patta Transfer in Application No.2022/0103/08/342315 dated 07.12.2022 and quash the same as illegal and further direct the 2nd and 3rd respondents herein to consider the



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application for Patta Transfer and order Transfer of Patta No.25 for the lands comprised in S.Nos.4/5A measuring an extent of 2.79 Acres, 4/5B measuring an extent of 0.02 Acre and 4/5C measuring an extent of 2.72 Acres totally measuring an extent of 5.53 Acres together with a well and trees thereon situated at Anaikoundampatti, Omalur Taluk, Salem District.

For Petitioner : Mr.V.P.Sengottuvel
Senior Counsel
for Mr.K.R.Nishanth

For Respondents : Mr.R.P.Muruganraja
Government Advocate

ORDER

The prayer sought for herein is for a Writ of Certiorarifid Mandamus calling for the records of the online rejection of the Application for Patta Transfer in Application No.2022/0103/08/342315 dated 07.12.2022 as illegal and further direct the 2nd and 3rd respondents herein to consider the application for Patta Transfer and order Transfer of Patta No.25 for the lands comprised in S.Nos.4/5A measuring an extent of 2.79 Acres, 4/5B measuring an extent of 0.02 Acre and 4/5C measuring an extent of 2.72 Acres totally measuring an extent of 5.53 Acres together with a well and trees thereon situated at Anaikoundampatti, Omalur Taluk, Salem District.

2. Certain properties stood in the name of the petitioner which was originally stood in the name of the erstwhile partners of the erstwhile



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Partnership Firm since is now vested with the petitioner Company under the provisions of the Companies Act especially under Section 575 of the Act since all the properties i.e. movable or immovable belonging to the petitioner is vested to the Company and therefore individual capacity the petitioner Company had sought for issuance of patta by transferring the name of the parties from partners of the Firm into a Company and that application when was filed through online by the petitioner to the 2nd and 3rd respondents where the petitioner had been asked to produce necessary documents to that effect and those documents also having been produced by the petitioner, when the petitioner waiting to get an order of transfer of patta in the name of the petitioner Company to the shocking of the petitioner, an online rejection order has been passed dated 07.12.2022 under which an one line rejection has been made stating that the application is rejected by the Zonal Deputy Tahsildar on 07.12.2022 beyond which nothing has been stated in the rejection order as to why and on what basis such rejection has been made, therefore challenging the said one line cryptic rejection order made by the 3rd respondent, the petitioner has moved the present writ petition with aforestated prayer.



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3. Heard Mr.V.P.Sengottuvel, learned Senior Counsel appearing for the petitioner who would submit that, in view of the categorical provisions which are available both in the Partnership Act as well as the Companies Act, all the properties in view of the Partnership firm has been converted into Company should vest only with the Company therefore in whose name patta should be transferred. Therefore, when an application was made in this regard by the petitioner Company to the Tahsildar concerned that has been rejected. If at all the Tahsildar wanted to reject it for any plausible reason that should have been stated in the order, nothing has been stated except one line that the application filed by the petitioner is rejected. Moreover, the Zonal Deputy Tahsildar has rejected the same instead of the Tahsildar to whom alone the application has been made being a competent authority, therefore for these infirmities the impugned order would not sustain, hence the learned Senior Counsel seeks indulgence of this Court.

4. Heard Mr.R.P.Muruganraja, learned Government Advocate appearing for the respondents who would submit that, since it was only an online application the rejection also made only online, therefore the detailed



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reason might not have been stated by the 3rd respondent which cannot cause rejection as bad in law, hence the learned Government Advocate wants to sustain the order impugned.

5. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

6. As has been rightly pointed out by the learned Senior Counsel appearing for the petitioner that, first of all the rejection order simply says that the application of the petitioner is rejected on 07.12.2022 by the Zonal Deputy Tahsildar, except this nothing has been stated in the said rejection order. It is the settled proposition of law that whenever any negative order is passed like the present one whereby the application of the petitioner is rejected, certainly that will have civil consequences, if such order is passed whatever being the reasons must have been stated by the authority who passes such an order. In this case, no such reason whatsoever has been given as to why and how the application submitted by the petitioner for getting a patta transfer in the name of the petitioner's Company have been considered



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and rejected as no reasons have been stated. Hence, this Court is of the considered view that the impugned rejection order cannot sustain in the eye of law.

7. Moreover, since the Tahsildar being the competent authority, even though the power is deputed to the 3rd respondent, the Tahsildar i.e. the 2nd respondent must have also looked into the matter and this kind of order ought not to have been passed by the 3rd respondent which should have been taken into account by the 2nd respondent.

8. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) That the impugned order is set aside. The matter is remitted back to the 2nd respondent for reconsideration. While reconsidering the same, the input already supplied by the petitioner can be taken into account as to why the plea raised by the petitioner should be considered and decided on merits and accordingly the same shall be considered and decided on merits and in this regard if any further input is required to be submitted by the petitioner, that can also be sought for by the



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2nd respondent from the petitioner and if any such communication is received by the petitioner, he shall respond to the same and comply with the said requirement and thereafter the 2nd respondent can pass orders as indicated above on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

(ii) It is made clear that, the provisions of the Partnership Act as well as the Companies Act as quoted herein above shall be borne in mind by the 2nd respondent while deciding the issue.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

Sgl

To

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R.SURESH KUMAR, J.

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