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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.7828 of 2021

M/s.Vijay Pharamaceuticals

Rep. by its Power of Attorney Holder M.Ranganathan,

S/o.Late.S.Muthusamy,

resideing at No.5/5, Rayakotta Road, Opp to Agri A.D. Office,
Hosur, Krishnagiri.

Petitioner

[Petitioner cause title substituted vide order dated 09.03.2023 made in WMP No.380 of 2023 in W.P.No.7828 of 2021]

vs.

1.The Chairman cum Managing Director,
Small Industries Development Corporation Ltd, (SIDCO),
Guindy, Chennai.

2.The General Manager,
Small Industries Development Corporation Ltd, (SIDCO),
Guindy, Chennai.

3.M/s.Sunjal Engineering Pvt. Ltd,
Plot B-1, SIDCO Industrial Estate,
Hosur – 635 216,
Krishnagiri District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned re-allotment order of the respondents 1 and 2 in Proceeding No.28967/DA1/87 dated 18.09.1987 and handing over proceedings in No.28967/DA1/87 dated 30.09.1987, to quash the same as illegal, incompetent and



ultra vires and consequently directing the respondents 1 and 2 to allot the Plot A-1 to the original allottee i.e., the petitioner Firm M/s.Vijay Pharmaceuticals and also direct to approve the building and planning permission for the construction of factory building in Plot A-1, Industrial Estate, SIDCO, Hosur, Krishnagiri Distict.

For Petitioner : Mr.V.Karthic
Senior Counsel for
Mr.Ma.P.Thangavel

For Respondents : Mr.B.Anand Kumar
Standing Counsel for R1 & R2
Mr.S.Vijayakumar, Senior Counsel for
Mr.J.Melwin Jabaz for R3

ORDER

This writ petition has been filed challenging the impugned re-allotment order passed by the SIDCO in favour of the 3rd respondent and for a consequential direction to SIDCO to allot the subject property in favour of the petitioner.

2.Heard Mr.V.Karthic, learned Senior Counsel appearing on behalf of the petitioner, Mr.B.Anand Kumar, learned Standing Counsel appearing on behalf of respondents 1 and 2 and Mr.S.Vijayakumar, Senior Counsel for Mr.J.Melwin Jabaz, learned counsel appearing on behalf of the 3rd respondent.

3.The case of the petitioner is that the SIDCO allotted the subject plot in favour of the petitioner through provisional allotment order dated 29.08.1978. As per the allotment order, the petitioner has to complete the construction of the building and



should commence the business within six months from taking possession of the plot.

The petitioner was originally intending to put up a pharmaceutical unit in the plot.

According to the petitioner, the amount that is due and payable by way of installments was also paid by the petitioner.

4.The petitioner was not able to start the pharmaceutical unit and wanted to change the line of business to packaging and other allied products. The petitioner also made a representation in this regard to SIDCO.

5.Since the petitioner did not comply with the conditions imposed in the provisional allotment order, the SIDCO initiated steps to cancel the allotment order and accordingly, it was also cancelled through proceedings dated 24.05.1984. The cancellation order became a subject matter of challenge before the Civil Court and it was pending before the District Judge of Dharmapuri at Krishnagiri District in CMA No.14 of 1985. While the proceedings were pending, the SIDCO passed the impugned re-allotment order in favour of the 3rd respondent and the plot was also handed over in favour of the 3rd respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

6.The SIDCO has filed a counter affidavit. They have taken a stand that the original allotment was cancelled and proceedings were initiated to take possession of the property and ultimately, the plot was resumed from the petitioner on 06.02.1985.



Thereafter, the petitioner had approached the competent Court and the matter was pending in CMA No.14 of 1985 before the District Judge. It is further stated in the counter that the CMA was dismissed for default by an order dated 11.08.1987. It is only thereafter, steps were taken for re-allotment of the plot and the re-allotment was made in favour of the 3rd respondent. After the re-allotment, a Sale Deed was also executed in favour of the 3rd respondent on 21.09.1987 which was registered as Document No.4367 of 1987. The SIDCO has sought for the dismissal of the writ petition.

7.The 3rd respondent has also filed a counter affidavit. They have taken a stand that after the re-allotment and the execution of the Sale Deed in their favour, they have been utilizing the plot for storing the manufactured goods. They have also taken a stand that they have been in possession and enjoyment of the plot from the date on which the Sale Deed was executed in their favour in the year 1987. The 3rd respondent has questioned the enormous delay in the petitioner approaching this Court in the year 2021 when the re-allotment had already taken place in favour of the 3rd respondent and Sale Deed was executed in the year 1987 itself. Therefore, the 3rd respondent has sought for the dismissal of the writ petition on the ground of laches.

8.This Court has carefully considered the submissions made on either side and also the materials available on record.



9. There is no dispute with regard to the fact that the allotment that was made in favour of the petitioner was cancelled. The cancellation of the allotment became a subject matter before a competent Civil Court. The petitioner did not get any favorable orders before the Civil Court. The plot was resumed from the petitioner by SIDCO thereafter, it has been reallocated in favour of the 3rd respondent and a Sale Deed has also been executed in favour of the 3rd respondent. This took place in the year 1987. Whereas, a writ petition was filed before this Court in the year 2014 in W.P.No.7725 of 2014 where the petitioner had sought for disposing of their representation dated 25.02.2014. This writ petition was disposed of by an order dated 20.09.2021 by taking into consideration the filing of the subsequent writ petition in W.P.No.7828 of 2021. Even assuming that the petitioner had knocked the doors of this Court in the year 2014, even then there is a delay of nearly 27 years. Even when the writ petition was filed in the year 2014, the petitioner did not chose to challenge the re-allotment order passed in favour of the 3rd respondent when such a cause of action was available to the petitioner. The re-allotment order ultimately was challenged only in the present writ petition which was filed in the year 2021. Therefore, this writ petition is liable to be dismissed primarily on the ground of laches.

10. Even on the merits of the case, the cancellation of allotment against the petitioner has not been interfered by any Court till date. The re-allotment is only a consequence of the cancellation of allotment made in favour of the petitioner. The



petitioner cannot have a cause of action to challenge the re-allotment order when the order cancelling the allotment is intact. Therefore, the present writ petition is liable to be dismissed on this ground also.

11.The learned Senior Counsel appearing on behalf of the petitioner made a faint attempt by making an allegation against the 3rd respondent as if the 3rd respondent has not utilized the plot and it is kept vacant. It is not necessary for this Court to go into this issue since this Court finds that the petitioner does not have any case in this writ petition. This Court does not find any merits in this writ petition and the same is liable to be dismissed by this Court.

12.The learned Senior Counsel appearing on behalf of the petitioner submitted that the partnership Firm had paid a total sum of Rs.25,225.50/- to SIDCO and this amount has not been refunded in spite of the cancellation of the allotment and re-allotment made in favour of the 3rd respondent. The SIDCO has taken a stand in Paragraph No.19 of the counter affidavit to the effect that refund order was issued through proceedings dated 20.11.1987 and the petitioner Firm did not take any steps to follow it up and get the amount refunded. In view of the same, it is left open to the Firm to approach the SIDCO seeking for the refund of the amount and the same shall be considered by the SIDCO in line with the stand taken in Paragraph No.19 of the counter affidavit.



13. In the result, this writ petition stands dismissed. No Costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

1. The Chairman cum Managing Director,
Small Industries Development Corporation Ltd, (SIDCO),
Guindy, Chennai.
2. The General Manager,
Small Industries Development Corporation Ltd, (SIDCO),
Guindy, Chennai.



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N. ANAND VENKATESH, J.

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