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Writ Petition No.12490 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.12490 of 2023

K.Thillaikarasi
W/o.R.Krishnan

... Petitioner

Vs.

1.Tamil Nadu Small Industries Development
Corporation,
represented by its Managing Director,
SIDCO, Thiruvieka Industrial Estate,
Guindy, Chennai - 32.

2.The Branch Manager,
Tamil Nadu Small Industries Development
Corporation, Five Roads, Salem - 4.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to return the amount of Rs.6,00,000/- [Rupees Six Lakhs only] paid by the petitioner to the respondents vide Receipt No.111824 dated 23.06.2017 with interest at appropriate rate and within a time frame, as may be fixed by this Court on the facts and circumstances of the case.

For Petitioner : Mr.N.Subramaniam

For Respondents : Mrs.Sithara Sarangan
Standing Counsel



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ORDER

This writ petition has been filed for issuance of a writ of mandamus directing the Tamil Nadu Small Industries Development Corporation (hereinafter referred to as 'SIDCO') to refund the amount that was paid by the petitioner towards additional cost with interest within a time frame fixed by this Court.

2. Heard Mr.N.Subramaniyan, learned counsel for petitioner and Mrs.Sithara Sarangan, learned Standing Counsel appearing for respondents.

3. The case of the petitioner is that she applied for allotment of a plot for running a business before SIDCO and the petitioner was allotted Plot No.22 having an extent of 28.77 cents on out right sale basis through proceedings dated 18.03.2008.

4. The amount that was fixed for the out right purchase was already paid by the petitioner and the SIDCO also executed a memorandum of understanding. The possession was also handed over to the petitioner.



5. The further case of the petitioner is that the SIDCO issued a notice in the year 2014-2015 demanding an additional cost based on the market value of the year 2013-14. The said demand for additional cost was challenged by some of the persons to whom the allotment was made in a batch of writ petitions in W.P.No.4065 of 2015 etc. and they have also sought for execution of the sale deed in their favour based on the original value that was paid pursuant to the allotment order. The batch of writ petitions came to be allowed by an order dated 22.01.2015 and this Court held that the additional costs that was demanded by SIDCO was illegal.

6. The above order passed in the batch of writ petitions became a subject matter of challenge in W.A.Nos.813 and 814 of 2015, which was filed by SIDCO and the Division Bench of this Court confirmed the order passed by the learned Single Judge and dismissed the writ appeals by an order dated 23.10.2017. Thus, the additional cost that was sought to be imposed by SIDCO was held to be illegal by the Division Bench and the said order has become final.



7. In the case of the petitioner, the petitioner had paid the additional cost since the petitioner was desperate to get the sale deed executed in her favour. In view of the fact that imposition of additional cost was held to be illegal by this Court, the petitioner had sought for refund of the additional cost paid by her with interest. Accordingly, the present writ petition has been filed before this Court.

8. A similar writ petition was filed before this Court in W.P.No.21241 of 2022 and the petitioner therein was placed similar like that of the petitioner in this writ petition. This writ petition was taken up for hearing along with the other connected writ petitions and the relevant portion in the order passed on 19.12.2022 is extracted hereunder:

"6. In the Writ Petition in W.P.No.21241 of 2022, the petitioner had sought to refund of Rs.six lakhs legally collected from her along with interest thereon. This amount has been collected from her towards additional cost demanded by the respondents. It is relevant to note that claiming of additional charges has been quashed by this Court in W.P.No.28993 of 2014 by an order dated 22.01.2015 which has been confirmed by the Division Bench of this Court in Writ Appeal No.813 of 2015, by an order dated 23.10.2017. When the demand of additional cost itself has been quashed, the Writ Petitioner in W.P.No.21241 of 2022 is entitled to refund of the amount.

7. Accordingly, these Writ Petitions are disposed of on the following terms:

- [i]
- [ii]



[iii]....

[iv]In W.P.No.21241 of 2022, the first respondent besides executing the sale deed in favour of the petitioner, is directed to refund the amount of additional cost of Rs.6,00,000/- [Rupees six lakhs only] paid by the petitioner within a period of two months from the date of receipt of a copy of this order."

9. The above order passed by this Court will squarely apply to the facts of the present case also. In view of the same, the prayer sought for in this writ petition can be allowed with a direction to the first respondent to refund the additional cost of Rs.6,00,000/- [Rupees Six Lakhs only] to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order.

10. In the considered view of this Court, once the additional cost that was imposed by SIDCO has already been held to be illegal and the said order has become final, the SIDCO being an instrumentality of the State is not expected to drive each of the allottee who had paid the additional cost to approach the Court and get an order seeking for refund. Once the additional cost is held to be illegal, SIDCO is not expected to retain that amount with them and in all fairness it has to be refunded to the concerned allottees, who had paid additional cost during the relevant point of time. This Court expects that SIDCO will not drive the allottees



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who are similarly placed to file writ petition before this Court and they will act on their own by taking a cue from this order. If this Court encounters yet another writ petition of similar nature, this Court will be constrained to initiate appropriate proceedings for retaining the additional cost in spite of the same being held to be illegal. This Court hopes that SIDCO will not drive this Court to take such an extreme step.

In the result, this writ petition is allowed with a direction to the first respondent to refund the additional cost of Rs.6,00,000/- [Rupees Six Lakhs only] to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs.

24.04.2023

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

To



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N.ANAND VENKATESH, J



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