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W.P.No.16654 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.16654 of 2018

1.C.R.Vasanthi
2.C.R.Devanand
3.C.R.Varalakshmi

... Petitioners

VS.

1.Tamil Nadu Small Industries Development Corporation Limited,
(TANSIDCO)
Represented by Chairman cum Managing Director,
Thiru.Vi.Ka Industrial Estate,
Guindy,
Chennai – 600 032.

2.The General Manager (Admn),
Tamil Nadu Small Industries Development Corporation Limited,
(TANSIDCO)
Thiru.Vi.Ka Industrial Estate,
Guindy,
Chennai – 600 032.

3.The Branch Manager,
Tamil Nadu Small Industries Development Corporation Limited,
(TANSIDCO)
SIDCO Industrial Estate,
Jaganathapuram Colony,
Erode-Chennimalai Road -638 001.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the 2nd respondent impugned reply and proceedings R.C.No.161/IE6/2016 dated 14.07.2017 wherein the petitioners representations dated 28.12.2015, 02.01.2016, 05.10.2016 and 19.06.2017 have not been considered and to quash the same and to direct the respondents to execute the sale deed for the Shed B1, SIDCO Industrial Estate, Chennimalai, Erode, in favour of the petitioners.

For Petitioners : Mr.C.Manishankar
Senior Advocate
for Mr.K.Mani

For Respondents : Mr.M.Elangovan

ORDER

The writ petition is filed challenging the order passed by the 2nd respondent refusing to consider the request of the petitioners for execution of sale deed in their favour and also for further direction to the respondents to consider the request of the petitioners and execution of sale deed in respect of Shed B1, SIDCO Industrial Estate, Chennimalai, Erode.



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2. It is the case of the petitioner that the above mentioned shed was allotted to the husband of the 1st petitioner and father of petitioners 2 and 3 namely one C.K.Rajaram and as per the terms of allotment order the entire consideration amount has been paid on 07.12.1989 to the 2nd respondent. The original allottee namely C.K.Rajaram died. Therefore, the petitioners being his legal representatives submitted various representations to the respondents seeking execution of sale deed in their favour. The 2nd respondent by impugned order refused to execute the sale deed by citing the Civil Court order passed in A.S.No.15 of 2015 on the file of Additional Subordinate Court, Erode.

3. The learned Senior counsel appearing for the petitioners mainly assailed the impugned order on the ground that the petitioners obtained injunction order from the Civil Court restraining the 2nd respondent/SIDCO from transferring the above mentioned plot to 3rd parties who were arrayed as defendants 2 and 3 in the Civil litigation. The 2nd respondent mis-understood the injunction granted by the Civil Court and refused to execute the sale deed by citing Civil Court order which operates in favour of the petitioner.



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4. The learned counsel appearing for the respondents by taking this Court to the judgment of the Civil Court in A.S.No.15 of 2015 submitted the respondents were restrained from effecting transfer of the above mentioned plot which was subject matter of the suit in favour of any person. Therefore, the impugned order passed by the 2nd respondent is perfectly justifiable.

5. A perusal of judgment passed in A.S.No.15 of 2015 on the file of the Principal Subordinate Court, Erode would suggest the petitioners herein prayed for relief of permanent injunction restraining the 2nd respondent herein who was arrayed as 4th defendant in the suit from effecting the transfer of the above mentioned property in favour of 3rd parties namely the defendants 2 and 3 in the suit.

6. While considering claim of the petitioners, the Civil Court granted a decree for rendition of accounts and also observed till rights of the parties are worked out, the 4th defendant in the suit namely the 2nd respondent herein is injuncted from transferring the suit property.



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7. Though the petitioner herein prayed for injunction restraining the 4th defendant therein from effecting transfer in favour of the defendants 2 and 3, the Civil Court granted injunction restraining the 4th respondent from transferring the above mentioned premises. It is not clear from the operative portion of the Civil Court judgment, whether the decree for injunction was granted only as against transfer in favour of the defendants 2 and 3 therein or it was granted against the 4th defendant/SIPCOT from transferring the suit property to any person. Further in the reasoning portion of judgment at para No.18, the Civil Court observed that injunction is only in respect of machineries of C.R.Rajaram. However, in para 19, it was mentioned that injunction was granted to the effect that the 4th defendant/SIPCOT shall not transfer the schedule premises itself. Apparently, there is a conflict between para Nos.18 and 19 of judgment with regard to scope of decree for injunction.

8. In such circumstances, this Court sitting in writ jurisdiction is not inclined to clarify the order passed by the Civil Court. The writ petitioner being a party to the Civil proceedings is at liberty to file



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an application before the Civil Court for clarification of the operative portion of the judgment.

9. Therefore, the writ petition is disposed of with liberty to the petitioner to file Review Application before the Principal Subordinate Court, Erode, seeking Review of the judgment dated 07.09.2015 made in A.S.No.15 of 2015. While calculating the limitation for filing the Review Application, the petitioner is entitled to exclude the time taken before this Court in prosecuting the writ petition (i.e., from 25.06.2018 to the date of receipt of copy of this order).

10. With these observations, this writ petition stands disposed of. No costs.

20.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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