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W.P. No. 24194 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

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

W.P. No. 24194 of 2023

and

W.M.P. No. 23645 of 2023

M/s. Thomyam Food Industries India P Ltd.,
Rep. by its Director Mr. Thu Yeongje,
Plot No. D-4, SIPCOT Industrial Park,
Irungattukottai,
Sriperumpudur Taluk,
Kancheepuram District.

... Petitioner

-VS-

1. The Managing Director,
SIPCOT Industrial Park,
Irungattukottai,
Sriperumpudur Taluk,
Kancheepuram District.

2. The Ministry of Commerce & Industry,
Government of India,
Secretariat for Industrial Promotion Foreign Collaboration,
Newdelhi.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent eviction notice in I/13871/2023, [SIP-HO/3548/2023-PI-EA1 dated 27.07.2023 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.



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For Petitioner : Mr. D.Vijayakumar
For Respondents : Mr. G.Suresh Kumar,
Standing Counsel (for R1)
Mr. S.Madana Gopal Rao (for R2)

ORDER

Heard Mr. D.Vijayakumar, Learned Counsel for the Petitioner, Mr. G.Suresh Kumar, Learned Standing Counsel for the First Respondent and Mr. S.Madana Gopal Rao, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had been allotted Plot No. D-4, SIPCOT Industrial Park, Irungattukottai measuring an extent of 3.00 acres for setting up an unit for manufacture of food products by Proceedings in Ref. No. D-3/IRU/TFIS/139/2001 dated 28.05.2002 issued by the First Respondent and Lease Deed dated 15.11.2002 was executed between them which has been registered as Document No. 2667/2003 in the office of the Sub Registrar, Kanchipuram.

3. At this juncture, reference must be made to Clause 6(a) of the said Allotment Order extracted below:-

“ If, in the opinion of SIPCOT, it is found that the land allotted



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to you is not put to use for the purpose for which it was allotted

or is in excess of your actual requirements, SIPCOT shall, at

any time, have the right to cancel the allotment in respect of

such land or excess land, as the case may be, and resume the

same. In that event, the plot deposit payable by you will be

suitably modified and refund if any, due to you will be made.

Development charges and any additional development charges

collected till the period of lease rent, interest and enhanced

interest, if any already paid or due, will not be subject to any

refund or modification in such an event.”

It has been further provided in Clauses 10 and 15(a) of the said Lease Deed as follows:-

“10. The Party of the First Part reserves the right to cancel the allotment, disconnect the water supply and forfeit the amount deposited for the plot allotted for the following reasons.

Non compliance of the terms and conditions of the allotment order or of this lease deed including non-payment of dues. On such cancellation the Party of the Second Part shall have no right to claim the amount paid towards the plot or the interest already



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paid by it.

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15.a. If, in the opinion of the First Part, it is found that the land allotted to the Party of the Second Part is not put to use for the purpose for which it was allotted or is in excess of the actual requirements of the Party of the Second Part for the purpose for which it was allotted, the Party of the First Part shall at any time have the right to cancel the allotment in respect of such land or excess land, as the case may be, and resume the same. In that event, the plot deposit and development charges and additional development charges collected from the Party of the Second Part will be suitably modified and refund of the plot deposit alone if any, due to the Party of the Second Part will be made. Development charges, additional development charges, Lease rent, Interest and enhanced interest, if any already paid or due, will not be subject to any refund or modification in such an event.”

3. According to the First Respondent, the unit of the Petitioner has been closed for more than seven years and had not been put to use for which it had



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been allotted and the Petitioner neither responded to the notices dated 21.12.2020, 26.11.2021 and 07.09.2022 sent in that regard nor had remitted the penalty amount imposed nor surrendered that plot, which resulted in cancellation of its allotment by Order No. I/13871/2023 SIP-HO/3548/2023-PI-EA1 dated 27.07.2023 passed by the First Respondent for breach of the aforesaid conditions, which is assailed in this Writ Petition.

4. In response to the query raised by this Court as to the manner in which the notices dated 21.12.2020, 26.11.2021 and 07.09.2022 had been delivered to the Petitioner, the First Respondent has filed typed-set of papers dated 18.11.2023 from which it is evident that the notice dated 21.12.2020 had been returned with postal endorsement 'left' and the First Respondent has affixed that notice on 20.01.2021 at the premises. In respect of the notice dated 26.11.2021, the First Respondent claims to have affixed the same at the premises, but had not sent it to the Petitioner by registered post. It is clearly inferred that none of the said notices have been actually delivered to the Petitioner and in respect of the last notice dated 07.09.2022, the Petitioner had submitted its reply dated 07.12.2022 explaining the difficulties during the COVID-19 pandemic for carrying on the business activities at the premises, but there has been no discussion regarding it in the impugned order of cancellation, which would



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vitiating it as in transgression of the principles of natural justice. In that view of

the matter, the cancellation of the allotment of the plot by Order No. I/13871/2023 SIP-HO/3548/2023-PI-EA1 dated 27.07.2023 passed by the First Respondent shall stand set aside and the matter remitted to the First Respondent to consider the explanation dated 07.12.2022 submitted by the Petitioner to the notice sent on 07.09.2022 by the Respondent. That apart, it is informed that the Petitioner has taken several efforts to revive the unit and has also submitted a detailed representation dated 02.08.2023 in that regard, which requires to be examined by the First Respondent before taking a final decision in the matter.

5. In view of the foregoing discussion, the following order is passed:-

- (i) the impugned order of cancellation in I/13871/2023 SIP-HO/3548/2023-PI-EA1 dated 27.07.2023 passed by the First Respondent is set aside;
- (ii) the First Respondent shall immediately examine the reply dated 07.12.2022 sent by the Petitioner to the notice dated 07.09.2022 along with the subsequent representation dated 02.08.2023 made by the Petitioner regarding the efforts taken to revive the unit;
- (iii) if it is found that any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not



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less than 15 days for the same;

- (iv) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard;
- (v) 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 under written acknowledgment; and
- (vi) the report of such compliance shall be filed by 30.04.2024 before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

20.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 14.02.2024.

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To

1. The Managing Director,
SIPCOT Industrial Park,
Irungattukottai,
Sriperumpudur Taluk,
Kancheepuram District.
2. The Ministry of Commerce & Industry,
Government of India,
Secretariat for Industrial Promotion Foreign Collaboration,
New Delhi.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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