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Writ Petition No.33486 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.08.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.33486 of 2022
and WMP.No.32932 of 2022

M/s.Esses Engineers,
Rep by its Proprietor,
Mr.Sajan Mathew,
No.57, TNSCB Complex,
Thirumangalam,
Anna Nagar (west),
Chennai – 600 040.

... Petitioner

Vs

1.The Secretary,
State of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai – 600 003.

2.SIPCOT Limited,
Rep. by its Managing Director,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai – 600 008.

3.The Estate Officer,
SIPCOT Industrial Complex,
Manamadurai Taluk,
Sivagangai District,
Tamil Nadu – 630 606.

... Respondents



Writ Petition No.33486 of 2022

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus or like writ or order and call for the records of the 2nd respondent as contained in its letter dated 19.03.2021 bearing NO.P-VI/SIC/MNM/Esses/27/2004 and quash the same and consequently direct the respondents 2 and 3 to refrain from taking any further action under the letter of the 3rd respondent dated 31.10.2022 bearing No.PO/SIP/Esses/2002.

For Petitioner : Mr.A.R.Karunakaran

For Respondents : Mr.G.Suresh Kumar
for R1 to R3

ORDER

This writ petition is filed challenging the order passed by the 2nd respondent cancelling the allotment of industrial plot in the SIPCOT Industrial Complex, Manamadurai to the petitioner under lease arrangement from 1990 onwards.

2. It is the case of the petitioner that Plot Nos.D-3, C-12, C-13 and C2 measuring 15.32 acres at SIPCOT Industrial Complex, Manamadurai was allotted to the petitioner by allotment order dated



04.02.2004. In pursuance of the allotment order, the 2nd respondent and petitioner entered into a lease deed on 24.02.2004 registered as Document No.448 of 2004 on the file of Sub Registrar Office, Manamadurai. The term of the lease was fixed for 99 years. The petitioner paid a sum of Rs.15,32,000/- as a one time lease rent.

3. It is stated by the petitioner that immediately thereafter, the petitioner started construction of the factory for manufacturing pipes. The petitioner commenced commercial production in the year 2004 also. The petitioner continued the manufacturing business till the year 2018 and the business was discontinued by the petitioner due to scarcity of water and poor maintenance of infrastructure in the industrial complex.

4. The petitioner was issued with a show cause notice on 21.09.2020 mentioning the violation of conditions mentioned in lease deed in failure to implement the project as envisaged in the allotment order. The petitioner met the 2nd respondent and explained the entire facts. It is also stated by the petitioner that show cause notice was issued by the respondent during Covid-19 pandemic period, the petitioner submitted a letter on



08.10.2020 informing the 2nd respondent that the petitioner commenced commercial production even in the year 2004 itself. The petitioner also expressed his intention to restart the production as soon as possible. Thereafter, the 2nd respondent without considering the explanation offered by the petitioner passed impugned order mainly on the ground that the petitioner failed to commence construction even after lapse of 16 years.

5. The learned counsel appearing for the petitioner submitted that the reasoning given by the 2nd respondent for cancelling the allotment, as if, the petitioner failed to commence the construction of the factory is erroneous in the light of the documents filed by the petitioner in the typed set of papers.

6. The learned counsel appearing for the respondents submitted that though the petitioner submitted certain documents for commencement of business in the year 2004, the petitioner has not produced any subsequent documents to show that he continued the business till 2018. The learned counsel also produced photocopy of the industrial plot originally allotted to the petitioner and submitted that the building available



in the industrial plot allotted to the petitioner is highly dilapidated.

Therefore, the contention of the petitioner, as if he continued the business till 2018 cannot be accepted.

7. A perusal of the impugned order passed by the 2nd respondent would suggest that the allotment made to the petitioner was cancelled mainly on the ground that the petitioner failed to commence construction in the allotted plot even after lapse of nearly 16 years. However, the photocopy produced by the respondents in the typed set of papers would suggest that there is a dilapidated structure standing in the plot allotted to the petitioner with damaged machineries. Therefore, the main reason given by the 2nd respondent for cancelling the allotment, as if, the petitioner failed to commence construction in the industrial plot allotted to him cannot be accepted. Further the petitioner produced the invoice dated 03.05.2004 which established purchase of HR Plates for commercial production in the factory located in C2 SIPCOT Industrial Complex, Manamadurai. The petitioner also produced certificate of registration issued by the Commercial Tax Officer dated 28.07.2007, wherein, the branch of the petitioner is mentioned as Plot No.C2 SIPCOT Industrial



Complex, Manamadurai. The petitioner also produced invoice bill dated 11.12.2004 and work order dated 10.02.2005, wherein, the address of the petitioner is mentioned as Plot No.C2 SIPCOT Industrial Estate, Manamadurai. Therefore, from the documents produced by the petitioner, it is clear that he commenced commercial production in the year 2004 and the same was stopped by him after sometime. Therefore, the main ground mentioned by the 2nd respondent in the impugned order as if the petitioner failed to commence construction in the allotted plot even after lapse of 16 years is not correct. Therefore, the impugned order passed by the 2nd respondent is liable to be set aside and accordingly, the writ petition is allowed by setting aside the order passed by the 2nd respondent dated 19.03.2021 cancelling allotment in favour of the petitioner.

8. The learned counsel appearing for the petitioner submits that the petitioner will commence the commercial production within six months from today. If the petitioner fails to commence commercial production within six months from today, it is open to the 2nd respondent to take any action against the petitioner, as per the conditions mentioned in the allotment order.



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9. Allowing of the writ petition will not come in the way of 2nd respondent, taking appropriate action against the petitioner in accordance with other conditions mentioned in the allotment order.

10. Accordingly, this Writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

09.08.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

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Chennai – 600 003.
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This matter is posted for being mentioned at the instance of the learned counsel for the petitioner.

2. When the matter is taken up for hearing, the learned counsel for the petitioner brought it to the notice of the Court that there are typographical errors in the prayer portion and the 1st paragraph of the order.

3. Accordingly, the last line in prayer portion and 1st paragraph of the order shall be amended as follows:-

In the last line of the prayer, the year “2002” shall be replaced with the year “2022” and in the last line of 1st paragraph of the order, the year “1990” shall be replaced with “2004”.

4. Registry is directed to issue fresh order copy by incorporating the above said changes.

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