



W.P. No. 35135 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

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

W.P. No. 35135 of 2022

and

W.M.P. Nos. 34600 and 34602 of 2022

M/s. Mayara Enterprises Pvt. Ltd.,
New No. 19, Old No. 6/3, II Street,
Parameswari Nagar,
Adyar,
Chennai – 600 020.

... Petitioner

-VS-

1. State of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St. George,
Chennai,
Tamil Nadu – 600 009.

2. State Industrial Promotion Corporation Tamil Nadu Limited,
Rep. by its Assistant Manager,
Rukmani Lakshmipathy Salai,
Egmore,
Chennai – 600 008.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order made in P-I/SIP/ORG/MAYARA/96/2013 dated 02.12.2022 passed by the Second Respondent and quash the same and forbear the Respondents from initiating proceedings under TNPP (E) Act, 1975 (Act 1



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of 1976) for evicting or resuming or allotting the land bearing Plot No. CP-5A @ SIPCOT Industrial Growth Centre, Oragadam, measuring 2.00 acres of land and the building to any third parties thereby affecting the rights of the Petitioner.

For Petitioner : Mr. P.Shiva

For Respondents : Mr. S.Arumugam,
Government Advocate (for R1)

Mr. R.Gunalan (for R2)

ORDER

Heard Mr. P.Shiva, Learned Counsel for Petitioner, Mr. S.Arumugam, Learned Government Advocate appearing for the First Respondent and Mr. R.Gunalan, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The industrial plot bearing No. CP-5A measuring an extent of 2.00 acres at SIPCOT Industrial Park, Oragadam, Kancheepuram District had been allotted on 03.10.2013 to the Petitioner by the Second Respondent with the condition that the allottee shall commence the construction of factory building within 6 months, complete it within 24 months and commence commercial/trial production within 30 months from the date of that allotment order. As the



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Petitioner had not implemented that project by commencing production even after lapse of more than 7 years, the allotment of the said plot in favour of the Petitioner was cancelled by Proceedings dated 28.01.2021, which was challenged by the Petitioner in the Writ Petition in W.P. No. 7140 of 2021 before this Court and disposed along with similar cases holding as follows:-

“44. In view of the above discussion, this court is of the view that the specific contentions raised by the learned counsel for the respective petitioners have been properly addressed by the learned Advocate General and the scheme suggested by SIPCOT is fully acceptable. Therefore, this court feels appropriate that the writ petitions can be disposed of with the following observation:-

- i) The petitioners have to opt either to surrender the lands allotted to them and get refund of the amount paid by them after deducting the amount deductible as per the prevailing policy of SIPCOT; (OR)*
- ii) if the petitioners are willing to retain the lands allotted to them despite such a long delay in implementing the project, they shall make payment of the penalty proposed by SIPCOT as indicated in the above mentioned table in 12 equal monthly*



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instalments commencing from the 1st of the English Calendar

month from the date of this order and also undertake to implement the project immediately and commence the commercial production within such period of 12 months;

iii) in case the petitioners fails to adhere to the above condition of making regular payment of monthly instalment of penalty or implementing the project within the stipulated period of 12 months, the SIPCOT will have every right to cancel the allotment without any reference to the court; iv) in the event of surrendering of a part of unused land, the petitioners will have to pay the penalty, if any, after adjusting the amount payable to the petitioners as per the prevailing policy of SIPCOT and they are also bound by the above mentioned conditions for payment of penalty, implementation of the project and the default clause. ”

3. According to the Second Respondent, though the Petitioner had remitted the sum of Rs. 80,64,000/- demanded towards penalty in terms of that order, it had neither completed the construction nor implemented the project despite 12 months time extended for it. In that backdrop, the Second Respondent by



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Proceedings No. P-I/SIP/ORG/Mayara/96/2013 dated 02.12.2022 again

cancelled the allotment of the said plot and called upon the Petitioner to execute and register the surrender deed within 30 days from that date failing which it was informed that action would be taken for its resumption under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975.

4. In this Writ Petition challenging the aforesaid order, this Court at the time of admission on 03.01.2023 has passed the following order:-

“2. It is the case of the petitioner that he has paid the penalty amount as ordered by this Court which is not been disputed and he also completed 90% of the work and he seeks only four months to complete the entire work.

3. At this stage the impugned notice has been passed cancelling the allotment. Having regard to the above, as 90% of the project is already completed remaining to be completed within four months, there shall be an order of status quo.

4. Mr. U.Bharanidaran, learned Additional Government Pleader takes notice for the respondents. For filing counter, post on 10.02.2023.”



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When the matter was listed on 10.02.2023, this Court passed the following

order:-

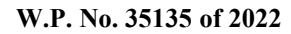
“ Mr.K.P.Sanjeev Kumar, learned counsel for the petitioner submitted that the Project Work is in progress and the same will be completed within a period of three months from today. Such statement is recorded.

2. Failure to complete the project within the time, as agreed by the petitioner, the respondents may proceed further as per law.

3. Post this case in the first week of June, under the captioned, “for reporting compliance”. ”

It is informed by the Learned Counsel appearing for the Petitioner that the Petitioner has complied with the aforesaid condition imposed by this Court and a representation dated 02.11.2023 has been made to the Second Respondent stating as follows:-

“In pursuant thereto, we have completed the construction work in all aspects and have also submitted our Application before the Food Safety and Standards Authority of India (FSSAI)



(A copy of the Acknowledgment of Application before FSSAI and GST Registration Certification is enclosed herewith for your reference)

We wish to inform you that we will commence business operations immediately upon obtaining requisite license from FSSAI. We have invested more than Rs.11,00,00,000/- (Rupees Eleven Crores Only) in setting up the hotel at the premises. We are fully committed to commence our business operations in the premises and we have already purchased all kitchen equipment and installed the same in the hotel premises to commence operations.

In these circumstances, we request your good office to take this representation on record and revoke/withdraw your notice dated 02.12.2022 cancelling the allotment of land measuring



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2.00 acres at SIPCOT Industrial Park, Oragadam and thus

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In view of the subsequent events narrated supra, it is represented that the Petitioner would be satisfied if orders on that representation are passed expeditiously.

5. Having regard to the aforesaid submissions made, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) the Second Respondent shall immediately examine the representation dated 02.11.2023 made by the Petitioner including ascertaining as to whether the Petitioner would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents is 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 less than 10 days for the same;
- (iii) 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;



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(iv) 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 by 31.03.2024 under written acknowledgment; and

(v) the report of such compliance shall be filed before the Registrar
(Judicial) of the Court.

In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 08.01.2024.

vjt

To

1. The Secretary to Government of Tamil Nadu,
Industries Department,
Fort St. George,
Chennai,
Tamil Nadu – 600 009.

2. The Assistant Manager,
State Industrial Promotion Corporation Tamil Nadu Limited,
Rukmani Lakshmipathy Salai,
Egmore,
Chennai – 600 008.



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Copy to

1. M/s. Mayara Enterprises Pvt. Ltd.,
New No. 19, Old No. 6/3, II Street,
Parameswari Nagar,
Adyar,
Chennai – 600 020.

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



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P.D. AUDIKESAVALU, J.

vjt

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