



W.P(MD).No. 6266 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2023

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.6266 of 2014

Sahul Hameed

..... Petitioner

- Vs-

1. The Industries Commissioner and Director
of Industries and Commerce,
Chepauk, Chennai.

2. The Assistant Director (E & E)
Electronic Development and Training Centre,
Industrial Estate,
Madurai – 625 007.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to allot a Plot at the Electrical and Electronic Industrial Estate, Madurai to the petitioner or to repay the part payment amount a sum of Rs.64,400/- (Rupees Sixty Four Thousand and Four Hundred only) paid by the petitioner.



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For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader
For R1 and R2

: Mr.T.Sakthi Kumaran
For proposed respondent

ORDER

This writ petition has been filed seeking for a writ of Mandamus, directing the respondents to allot a Plot at the Electrical and Electronic Industrial Estate, Madurai to the petitioner or to repay the part payment amount a sum of Rs.64,400/- (Rupees Sixty Four Thousand and Four Hundred only) paid by the petitioner.

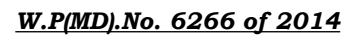
2. The learned counsel appearing for the petitioner would submit that the petitioner was allotted the Plot No.34 at Kappalur Industrial Estate, by the second respondent by his proceedings, dated 25.02.2002. Thereafter, the petitioner had paid a sum of Rs.40,000/- (Rupees Forty Thousand only) by way of Cheque bearing No.765212, dated 24.05.2002. However, the claim of the petitioner that he has paid a further sum of Rs.20,000/- (Rupees



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Twenty Thousand only) has been disputed and the petitioner had also not produced any documents evidencing payment of Rs.20,000/- (Rupees Twenty Thousand only). However, by proceedings dated 04.09.2002, the first respondent had called upon the petitioner to pay the balance amount of Rs.79,200/- (Rupees Seventy Nine Thousand and Two Hundred only) for allotment, if not paid the same will be cancelled. As the petitioner had some difficulty in making the payment within the time, he had made a request seeking extension of time. But however, by proceedings dated 08.10.2004, the second respondent passed an order of cancellation and resumption of the land. Thereafter, the petitioner had sent a representation to the second respondent seeking to allot the land accepting the payment or to refund the amount. As no action has been initiated, the petitioner had approached this Court by filing this Writ petition.

3. When the matter was taken up for hearing on 16.02.2023, it was brought to the notice of this Court by the learned counsel appearing for the petitioner the plots have been handed over to the SIDCO and the petitioner was directed to serve notice upon the Standing counsel for SIDCO and T.Sakthi Kumaran, learned counsel is present today for SIDCO. He would



4. The learned Special Government Pleader appearing on behalf the respondents 1 and 2 would submit that the allotment of the land in favour of petitioner was cancelled as early as on 27.09. 2004 for the non payment of the balance amount by the petitioner and the second respondent has also issued orders on 08.10.2004 resuming the said land from the petitioner. She would further submit that the order of cancellation, dated 27.09.2004 and the order of resumption dated 08.10.2004 has not been challenged by the petitioner. But however, he had filed the present writ petition.

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refund of money, the same will be considered by the second respondent.

Hence, she would submit that the petitioner would not be entitled to allotment of land. But however, he would be entitled to refund of the amount of Rs.40,000/- (Rupees Forty thousand only) paid by him on an application made by him. She would also dispute that the petitioner had not paid the amount of Rs.60,000/- (Rupees Sixty Thousand only) as prayed by him and only paid for a sum of Rs.40,000/- (Rupees Forty Thousand only).

6. I have considered the rival submissions made by the learned counsel on either side.

7. Even though the petitioner was made an allotment in the year 2002 and the cost of the land has been fixed at Rs.79,200/- (Rupees Seventy Nine Thousand and Two Hundred only), admittedly, the petitioner had paid a sum of Rs.40,000/- (Rupees Forty thousand only) on 24.05.2002, which has been acknowledged by the second respondent in his counter. However, the claim of the petitioner that he has paid a further sum of Rs.20,000/- (Rupees Twenty Thousand only) is disputed and the petitioner had also not produced any documents evidencing payment of Rs.20,000/- (Rupees Twenty



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Thousand only). He had also not challenged the orders of cancellation passed by the first respondent, dated 27.09.2004 and the consequential order of resumption passed by the second respondent, dated 08.10.2004.

8. In the light of the aforesaid fact, the first part of the prayer seeking to allot the plot in the Industrial Estate could not be entertained. But the alternative prayer for the refund of the amount to a sum of Rs.40,000/- (Rupees Forty Thousand only) to which, the petitioner produced the acknowledgement and admitted by the second respondent alone would be entertained. But however, even in the order dated 08.10.2004, the second respondent had accepted that the said cost paid by the petitioner would be refunded in due course, after completing the usual formalities, in the counter affidavit it has been pleaded that such refund would be made only, if an application is made by the petitioner.

9. In my view, such statement made by the second respondent in the counter affidavit is purely without any basis and is arbitrary. In view of the fact that it is an admitted case by the second respondent that the petitioner had paid a sum of Rs.40,000/- (Rupees Forty Thousand only) towards



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tentative cost and that in the order dated 08.10.2004 he had accepted to refund the said amount after getting usual formalities, there shall be a direction to the second respondent to refund a sum of Rs.40,000/- (Rupees Forty Thousand only) along with interest at the rate of 8% per annum within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. With the above said direction, this Writ Petition is disposed of.

There shall be no order as to costs.

03.03.2023

NCC: Yes / No

Index : Yes / No

Internet : Yes / No

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To

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of Industries and Commerce,
Chepauk, Chennai.
2. The Assistant Director (E & E)
Electronic Development and Training Centre,
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K.KUMARESH BABU, J.

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