



W.P(MD)No.2746 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2746 of 2015
and
M.P.(MD)Nos.1 & 2 of 2015

K.Arumugam

... Petitioner

Vs.

- 1.Tamil Nadu Small Industries
Development Corporation Ltd.,
Represented by its
Chairman & Managing Director,
SIDCO Corporate Office,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai-600 032.
- 2.The General Manager,
SIDCO Corporate Office,
Thiru Vi Ka Industrial Estate,
Guindu, Chennai-600 032.
- 3.The Branch Manager,
Tamil Nadu Small Industries,
Development Corporation Ltd.,
Industrial Estate,
Pettai, Tirunelveli-10.
- 4.The Member Secretary,
Local Planning Authority,
Thoothukudi.
(R4 is suo motu impleaded vide order
dated 18.08.2023)

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Rc.No.10074/1E-5/2011 dated 12.01.2015, quash the same and consequently direct the 1st respondent to execute the sale deed infavour of the petitioner for the plot D.P.No.15 measuring an extent of 0.216 Acres Comprised in phase I of the SIDCO Industrial Estate, Thoothukudi.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondent : Mr.T.Sakthikumaran
for R1 to R3
: Mr.D.Gandhiraj
Special Government Pleader for R4

ORDER

Heard the learned counsel for the petitioner and the learned standing counsel for SIDCO and the learned Special Government Pleader for the 4th respondent.

2. The petitioner was allotted the petition mentioned plot by SIDCO. One of the conditions of allotment was that the petitioner should obtain approval from the planning authority and put up construction within two years. Since it was not done, the impugned cancellation order came to be passed. Challenging the same, this writ petition came to be filed.



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3. The learned counsel appearing for the petitioner submitted that since the layout approval had not been given in favour of SIDCO, the petitioner could not obtain approval from the planning authority. I therefore *suo motu* impleaded the member secretary, local planning authority, Thoothukudi as the fourth respondent. The following order was passed on 18.08.2023:-

“The Member Secretary, Local Planning Authority, Thoothukudi is suo motu impleaded as the fourth respondent.

2. Mr.D.Gandhiraj, learned Special Government Pleader is directed to take notice for the impleaded fourth respondent.

3. The Registry is directed to carry out necessary amendment in the cause title.

4. The case of the writ petitioner is that even though he was allotted plot, he could not get approval from the planning authority because layout approval has not been given to SIDCO. SIDCO is directed to submit a formal application to the Member Secretary, Local Planning Authority, Thoothukudi within seven days from the date of receipt of a copy of this order. The impleaded respondent shall consider the same and report before this Court.”

4. Today when the matter was taken up for hearing, the learned standing counsel submitted that after the impugned order was passed, the layout approval had been given in favour of SIDCO on 18.03.2016. This submission of the standing counsel validates the stand of the petitioner. When the layout approval had not been given in favour of SIDCO, obviously, the petitioner could not have obtained planning approval for putting up construction on the



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allotted plot. The allottee cannot be expected to do something impossible.

5. In this view of the matter, the order impugned in the writ petition is set aside. The petitioner shall obtain planning approval from the competent authority and also complete the construction. This shall be done by the petitioner within one year from the date of receipt of a copy of this order.

6. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

13.09.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

The Member Secretary,
Local Planning Authority,
Thoothukudi.

G.R.SWAMINATHAN, J.



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