



W.P.(MD) No.23730 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.23730 of 2022

and

W.M.P.(MD) No.17806 of 2022

K.Vellaichamy

.. Petitioner

Vs.

1.The Chairperson and Managing Director,
Tamilnadu Small Industries Development
Corporation Limited,
SIDCO Corporate Office Buildings,
Thiruvika Industrial Estate,
Guindy, Chennai-600 032.

2.The General Manager,
Tamilnadu Small Industries Development
Corporation Limited,
SIDCO Corporate Office Building,
Thiruvika Industrial Estate,
Guindy, Chennai-600 032.

3.The Branch Manager,
Tamilnadu Small Industries Development
Corporation Limited,
Thondi Road, Sivagangai-630 561.

.. Respondents



W.P.(MD) No.23730 of 2022

WEB COPY

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the Impugned order in RC.No.7763/IE3-2/2019 dated 13.09.2022 on the file of the second respondent and quash the same and further directing the respondents to execute the sale deed in favour of the petitioner in pursuant to the allotment order dated 31.09.2021.

For Petitioner : Mr.Selva Adithya
for Mr.G.Prabhu Rajadurai

For Respondents : Mr.T.Sakthikumaran
Standing Counsel

ORDER

The petitioner has filed this writ petition invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus calling for the records of the second respondent in his order in R.C.No.7763/IE3-2/2019 dated 13.09.2021 and quash the same and direct the respondents to execute the sale deed in favour of the petitioner pursuant to the allotment order dated 30.09.2021.



W.P.(MD) No.23730 of 2022

WEB COPY

2. The facts necessary to dispose of the writ petition are herein below set out:

It is the case of the petitioner that he is a Post Graduate in Commerce and a resident of Sivagangai. He suffered a Loco Motor disability, as his left leg is disabled and his disability is certified to be 80%. The petitioner is however engaged in doing small time business at Sivagangai and is the sole breadwinner of his family consisting of his wife and two school going children. In the mean time, the respondent/Corporation had developed an industrial estate known as SIPCOT Industrial Estate within the limits of Surakulam Panchayat, Sivagangai. The estate was plotted out into plots on different sizes all of which were earmarked for industrial and commercial purposes. The petitioner with an intention to establish an LPG gas station had applied for the allotment of a plot and an allotment order dated 30.09.2019 bearing D.P.No.34, measuring 36 cents was issued by the first respondent. The commercial plots were higher in cost than the developed plots. Thereafter, on paying the extra cost, the petitioner's property was also converted into a commercial plot. The total cost of the



W.P.(MD) No.23730 of 2022

plot was fixed at a sum of Rs.31,05,000/- and the plot bearing D.P.No.34 was allotted to the petitioner and possession was also handed over under a cover of possession letter dated 28.12.2020.

3. The petitioner would submit that meanwhile, the country had gone into a lockdown on account of the COVID-19 pandemic and the petitioner was not able to negotiate for setting up an LPG gas station. Therefore, he had contacted the officials of the respondent/Corporation to convert the allotment from LPG gas station to a hotel. No decision in this regard was taken. Once again a representation dated 28.02.2022 was given by the petitioner. Despite receipt of the same, the respondents did not take any steps to permit this conversion. Meanwhile, the petitioner had submitted an application to the Panchayat for constructing a building which could be utilised either as a hotel or as a gas station and on obtaining the permission, the building was also raised.

4. It is the case of the petitioner that the third respondent had a grudge against him, since the petitioner's wife had initiated proceedings



W.P.(MD) No.23730 of 2022

WEB COPY

against the third respondent as her request for a commercial plot was being delayed and persons who were way back in the queue had been added in a surreptitious manner.

5. The petitioner would submit that the first respondent had issued a show cause notice dated 01.04.2022 stating that the petitioner had violated the terms and conditions of the allotment order particularly Condition Nos.3, 5(ix) and 7(iv) calling upon the petitioner to submit his reply as to why the allotment order should not be cancelled. The petitioner had filed a writ petition challenging the said show cause notice in W.P.(MD) No.6553 of 2021. Thereafter, on 11.04.2021, he has withdrawn the writ petition with liberty to give reply to the show cause notice. Accordingly, the petitioner had submitted his reply on 16.04.2022.

6. The petitioner would submit that after receiving his reply, the respondents had not proceeded further and no enquiry had been held. Therefore, the petitioner was lulled into believing that the proceedings



W.P.(MD) No.23730 of 2022

had been dropped and the respondents had considered his response.

However, to his utter shock, he had received a notice dated 28.05.2022, under Rule 3 of the Tamil Nadu Public Premises Eviction of Unauthorised Occupant Rules, 1978 from the third respondent calling upon him to submit a reply as to why he should not be evicted on the ground that he had entered into a third party agreement in respect of the allotted plot and the said notice had also referred to the order of cancellation of allotment dated 06.05.2022.

7. Once again the petitioner had moved this Court in W.P.(MD) No.11131 of 2022 and this Court had allowed the writ petition and set aside the order by accepting the response of the petitioner that he had not entered into an agreement of sale with one Vijayakumari, but that it was only a security for a loan. That apart, the cancellation order dated 06.05.2022 had not been served on the petitioner. The respondents were directed to hold an enquiry afresh and give a personal hearing to the petitioner. Thereafter, the petitioner was called for an enquiry on 08.07.2022 and 26.07.2022 where he has submitted a detailed



W.P.(MD) No.23730 of 2022

explanation and examined witnesses. However, without considering the explanation and the evidence, the second respondent had once again cancelled the allotment by his order dated 13.09.2021 aggrieved by which the petitioner is now before this Court.

8. Mr.Selva Adithya, learned counsel appearing on behalf of the petitioner would submit that the petitioner has not violated any of the terms of the allotment order. Further, the allegation that he had plotted out the premises is totally false. Vijayakumari who had originally filed a complaint against the petitioner had herself conceded that she had obtained an agreement of sale only as a security for the loan that she had advanced to the petitioner. Therefore, in the light of the above statement, the conclusion of the respondents that the petitioner has transferred the property to others only based on the boundary description is absolutely without any basis. Therefore, considering the fact that the allotment was cancelled only on this ground, the said order has to necessarily be set aside and the allotment restored.



W.P.(MD) No.23730 of 2022

WEB COPY

9. Per contra, Mr.T.Sakthikumaran, learned Standing Counsel appearing on behalf of the respondents would submit that the petitioner has come to Court suppressing the true facts. He would state that after the allotment was made in favour of the petitioner, the petitioner has further plotted out the land into four units and had entered into an agreement of sale with one Vijayakumari who had given a representation to the first respondent stating that she had entered into an agreement of sale in respect of one portion of the property measuring an extent of 5 cents for a sum of Rs.20,00,000/- and that she had paid an advance of Rs.6,00,000/- and though the petitioner had stated that he would execute the sale deed in her favour within three months, he had reneged on the assurance. She would submit that only when she had approached the office of the first respondent, she came to learn that the property allotted by the respondent/Board could not be plotted out and sold to third parties. She had therefore, requested the respondent/Board to allot the portion in respect of which she had entered into an agreement of sale. It was only when the above complaint had been received, the



W.P.(MD) No.23730 of 2022

WEB COPY

respondent/Board had come to know that the petitioner had violated the terms of the allotment. In fact, the agreement of sale, which was entered into between the petitioner and the said Vijayakumari would indicate that the property has been plotted out into smaller plots as the eastern boundary has been described as Manimegalai's four cents plot and the western boundary has been described as remaining extent of Plot No.34.

10. That apart, the petitioner, who has been allotted the property for the purpose of setting up a fuel station has converted the same into a hotel. The third respondent had thereafter, issued a show cause notice dated 01.04.2022 pointing these violations seeking an explanation from the petitioner as to why the allotment should not be cancelled. The petitioner had challenged the show cause notice by filing W.P.(MD) No. 6553 of 2021 which he withdrew on 11.04.2021 seeking for a liberty to give his reply. On 16.04.2022, the reply had been sent by the petitioner. Since the allotment was cancelled by order dated 06.05.2022, which was challenged by the petitioner in W.P.(MD) No.11131 of 2022, this Court was pleased to allow the writ petition on the ground that the respondents



W.P.(MD) No.23730 of 2022

had not afforded an opportunity to the petitioner to put across his case and has also not taken note of the COVID-19 situation. This order was passed on 09.06.2022. The learned Judge had directed that the petitioner should be afforded a further opportunity of hearing. Accordingly, the petitioner was heard afresh in detail during the enquiry on 08.07.2022 and 26.07.2022. The petitioner had also examined a third party as a witness on his side.

11. The learned Standing Counsel would further submit that the petitioner was afforded sufficient opportunity to clarify his stand and therefore, he cannot plead that the order has been passed without hearing him. Be that as it may, the petitioner has suppressed the facts before this Court and he seeks to have a legal colour given to his illegal and unauthorised acts. Therefore, the writ petition should be dismissed.

12. Perusal of the documents which have been filed on the side of the petitioner would show that the allotment was for the purpose of setting out an auto LPG dispensing station. As per the terms of the



W.P.(MD) No.23730 of 2022

WEB COPY

allotment order, the allottee was to utilise the plot only for the purpose for which it was allotted and not for any other purposes and any violation would result in the automatic cancellation of the allotment. That apart, the development in the plot was to be commenced within six months from the date of taking possession of the plot and where such possession is not taken, it would also lead to the cancellation of the allotment. The other terms of the allotment were that there could be no change in constitution/lease/transfer of the unit and in case, such a transfer is proposed, it has to be done only with the written consent and the same would be considered by the respondents.

13. The records would further show that the petitioner has sought a planning permission for setting up a hotel premises as early as on 11.06.2021. On 16.09.2021 the plan had been submitted, which would clearly show that the petitioner intended to put up a restaurant in the premises, which has been allotted exclusively for the purpose of putting up an LPG dispensing station.



W.P.(MD) No.23730 of 2022

WEB COPY

14. Today, when the matter was heard, a letter dated 20.04.2021 was produced in which one K.R.Suresh Kumar, Managing Partner of KR Fuels, Lawsons Road, Contonment, Tiruchirappalli, stated that the petitioner herein has been appointed as a franchise for the Sivagangai and requested the third respondent to transfer the land's ownership in the name of K.Vellaisamy. A perusal of this letter would clearly show that it is a created document, since the application has been made only in the name of Vellaisamy on 04.12.2018, allotment order dated 30.01.2019 was in the name of the petitioner and further possession was also handed over on 28.12.2020 to the petitioner herein and there was no necessity for KR Fuels to seek transfer of ownership. This would clearly show that the letter in question has been fabricated.

15. Considering the fact that the petitioner has violated the terms of the allotment agreeing to sell/mortgage portion of the property, plotting out the same which is evident from the description of the property in the agreement of sale executed in favour of Vijayakumari and though the allotment was for setting up a fuel dispensing station, the



W.P.(MD) No.23730 of 2022

petitioner has sought for and obtained an approval for putting up a hotel,

I see no reason to interfere with the order impugned in this writ petition.

16. In the result, this Writ Petition is dismissed. No costs.

27.03.2023

(2/2)

NCC : Yes/No

Index : Yes/No

abr

To

- 1.The Chairperson and Managing Director,
Tamilnadu Small Industries Development
Corporation Limited,
SIDCO Corporate Office Buildings,
Thiruvika Industrial Estate, Guindy, Chennai-600 032.
- 2.The General Manager,
Tamilnadu Small Industries Development
Corporation Limited,
SIDCO Corporate Office Building,
Thiruvika Industrial Estate, Guindy, Chennai-600 032.
- 3.The Branch Manager,
Tamilnadu Small Industries Development
Corporation Limited,
Thondi Road, Sivagangai-630 561.



WEB COPY



W.P.(MD) No.23730 of 2022

P.T.ASHA, J.

abr

W.P.(MD) No.23730 of 2022

Dated: 27.03.2023

(2/2)