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W.P. No. 2307 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM

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

W.P. No. 2307 of 2023

and

W.M.P. Nos. 2373 and 2374 of 2023

M/s. JCBL Marrel Tipper Private Limited,
Represented by its Authorized Signatory,
Mr. Mani Sundaram,
B-7/1, Vaipur Village,
SIPCOT Industrial Growth Center,
Oragadam – 602 105,
Sriperumbudur Taluk.

... Petitioner

-VS-

The Managing Director,
State Industrial Promotion Corporation Limited,
No. 19-A, Rukmani Lakshmipathy Road,
Egmore,
Chennai – 600 028.

... Respondent

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 impugned proceedings of the Respondent in P-I/ORG/JCBL Infra/37(i)/2006 dated 14.09.2022 where the Respondent has resolved to collect 100% differential land cost from Petitioner for 6.30 acres of unutilized land; and request for surrender of 6.00 acres out of 10.78 acres held by M/s. JCBL Ltd Parent Company of the Petitioner and transfer of 4.78 acres in favour of M/s. JCBL Marrel Tipper Pvt. Ltd., on payment of Rs.70 Lakhs per acre and delaying the grant of NOC for mortgaging the lease hold rights of the



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lands of the Petitioner and quash the same and consequently, direct the Respondent to comply with their conditions of Respondents in letter dated 29.06.2022 cost as it violates the fundamental rights of the Petitioner.

For Petitioner : Mr. V.P.Senguttavel (Senior Counsel)
Assisted by Mr.Krishna Ravindran
for M/s.K.R.Nishanth

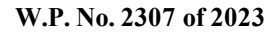
For Respondent : Mr.Abishek Murthi

ORDER

Heard Mr. V.P.Senguttavel, Learned Senior Counsel appearing for the Petitioner and Mr. Abishek Murthi, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner (earlier known as M/s. JCBL Limited) was allotted industrial plots situated in SIPCOT Information Growth Centre, Oragadam by the Respondent on lease for 99 years for setting up an unit for coach building of bus bodies and manufacture of cargo boxes as per the proceedings shown below:-

S. No.	Date	Proceedings No.	Plot No.	Extent
1.	07.08.2006	REF. NO. D-I/ORG/JCBL/2006	B-7 and B-8	23.14 acres
2.	26.12.2006	REF. NO. D-I/SIGC/JCBL/2006	B-7 and B-8	21.03 acres
3.	17.07.2007	REF. NO. D-I/ORG/JCBL	B-7/1	6.00 acres



In furtherance thereto, the parties had executed the lease-deed dated 27.12.2006 registered as Document No. 5783 of 2007, lease-deed dated 28.12.2007 registered as Document No. 24961 of 2007, lease-deed dated 06.08.2008 registered as Document No. 11368 of 2008, lease-deed dated 31.12.2009 registered as Document No. 10157 of 2009, lease-deed dated 14.02.2018 registered as Document No. 517 of 2018 and lease-deed dated 06.08.2020 registered as Document No. 1483 of 2020 in the office of the Sub-Registrar, Sunguvarchathiram. The Respondent by Proceedings in Lr. No. P-III/ORG/JCBL Infra/37(i)/2006 dated 21.01.2021 had issued the following order:-



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1. As per Condition No. 3 (vii) of the allotment order and Clause Nos. 17 & 18 of the lease deed, the allottee has to commence the construction of buildings within 6 months, completion of construction within 24 months and commence commercial production within 30 months from the date of Allotment Order. However, you have not implemented the project in the allotted plot and also not commenced the commercial production till date.
2. The above default amounts to non-observance and breach of conditions of Lease Deed and non-compliance of the terms of Allotment Order/Lease Deed which could not be agreed to.
3. You are therefore called upon to show cause within 90 days from the date of this notice as to why the allotment of the plot should not be cancelled as per the terms and conditions of Allotment Order/Lease Deed and proceed to resume the unutilized plot/extent under TNPP(E) Act.
4. As per the revised surrender policy you can surrender the plot or part thereof and avail refund equal to the amount remitted with a deduction of 1% of the total amount remitted proportionate to the extent of plot surrendered.



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5. Please be noticed that if you fail to take remedial action within 90 days from the date of this notice, SIPCOT will be constrained to cancel the allotment, and then proceed to resume the unutilized plot/extent thereof under TNPP(E) Act without any further reference to you.

The said order was challenged in the Writ Petition in W.P. No. 4131 of 2021 before this Court, which was disposed by common order dated 24.09.2021 along with a batch of cases, against which the Petitioner alone had preferred appeal in W.A. No. 2952 of 2021 before the Division Bench of this Court, in which by order dated 05.03.2024 it was held as follows:-

“2. The present appellant had filed the writ petition challenging the communication dated 21.01.2021. Under the said communication, the SIPCOT alleged that the petitioner has not completed the project within the prescribed period. The said default amounts to non-observance and breach of conditions of Lease Deed and non-compliance of the terms of Allotment Order/Lease Deed. Under the said communication, the petitioner was



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directed to show cause as to why the allotment of the plot should not be cancelled and/or to resume the land.

3. *The writ petition filed by the petitioner was dismissed under the impugned order by the learned Single Judge.*

4. *The learned senior advocate for the appellant submits that there is no power to impose/levy penalty. The non-completion of the project was because of force majeure. It is submitted that the allotment letter was issued on 20.03.2020, just three days before the outbreak of Covid-19 pandemic. It was on 23.03.2020 the countrywide lockdown was imposed and all activities came to a stand-still. There was no way the project could have been completed by December, 2020.*

5. *According to the learned counsel for the respondents, the allotment to the appellant company was in the year 2006. The transfer of allotment was accepted upon the*



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condition that the project would be implemented by December, 2020. The same was not implemented. The learned counsel further submits that the impugned communication is only a show cause notice. In fact, the petitioner/ appellant ought to have filed a reply to the show cause notice and the authorities would have considered the reply. According to the learned counsel, if the petitioner/appellant files a reply to the show cause notice, the authorities would re-consider the same.

6. *The learned senior advocate for the appellant submits that the project has been implemented completely.*

7. *It appears, in view of the submissions made, that the project has been implemented and for the delay caused in implementing the project, one of the reasons given by the appellant, is Covid-19 pandemic. The learned Single Judge had directed payment of penalty. However, the penalty was not at all imposed by the respondent SIPCOT. It was only a*



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show cause notice that was issued.

8. As it is contended that the project has already been implemented and the impugned notice is only a show cause notice and no penalty was determined by the respondent SIPCOT nor the allotment was cancelled, we pass the following order:

- a) The impugned order of the learned Single Judge qua the petitioner/appellant is quashed and set aside;*
- b) The petitioner/appellant shall file a reply to the show cause notice dated 21.01.2021 within a period of fifteen days from today;*
- c) The respondent shall consider the reply filed by the petitioner to the show cause notice and shall take a decision pursuant to the said show cause notice on its own merits in accordance with law and policy. The writ appeal accordingly stands partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.”*



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3. However, after the disposal of the Writ Petition in W.P. No. 4131 of 2021, the Respondent by another Proceedings No. P-I/ORG/JCBL Infra/37(i)/2006 dated 14.09.2022 had passed the following order:-

Sub: SIPCOT Industrial Part at Oragadam – Plot No. B-7 & B-8(pt) / 10.78 acres & B-7/2 measuring 6.30 acres allotted to M/s. JCBL Ltd. & M/s. JCBL Marrel Tippers Pvt. Ltd. - 90 days notice issued for non implementation of the project – Filed OA No. 733 of 2020 before the Learned Sole Arbitrator and WP No. 4131 of 2021 before the Hon'ble High Court of Madras – Award passed by the Sole Arbitrator & Orders passed by the Hon'ble High Court of Madras – Revised proposal placed before the Board of SIPCOT – Board's decision communicated – Reg.

Ref: 1. Our allotment order dt. 07.08.2006 & Letter dt. 20.03.2020
2. 90 days notice dated 30.09.2020/21.01.2021
3. Award dt. 28.02.2022 of the Sole Arbitrator in OA No. 733 of 2020
4. Orders dt. 24.09.2021 of the Hon'ble High Court of Madras in WP No. 4131/2021
5. Your ltr dt. 08.04.2022, mail dt. 16.05.2022, ltr dt. 08.06.2022 & dt. 11.07.2022 (mail)
6. Board meeting of SIPCOT held on 09.06.2022 & 24.08.2002
7. This office letter dt. 29.06.2022.

With reference to you mail dt. 11.07.2022, your proposal



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has been placed before the Board of SIPCOT at its meeting held on 24.08.2022. After detailed deliberation, the Board RESOLVED to collect 100% differential land cost from M/s. JCBL Marrel Tippers P. Ltd. For 6.30 acres of unutilized land; and accede to the request for surrender of 6.00 acres out of 10.78 acres held by M/s. JCBL Ltd and transfer of 4.78 acres in favour of M/s. JCBL Marrel Tipper Pvt. Ltd., on payment of Rs. 70 lakhs per acre failing which SIPCOT shall proceed legall.

In view of the above, you are requested to remit the differential land cost of Rs. 8,38,00,000/- as penalty along with accrued interest for the belated period for 6.30 acres of untilized land, as ordered by the Hon'ble High Court of Madras vide reference 4th cited and consent for surrender of 6.00 acres out of 10.78 acres held by M/s. JCBL Ltd and transfer of balance 4.78 acres in favour of M/s. JCBL Marrel Tipper Pvt. Ltd., on payment of Rs. 70 lakhs per acre within 30 days from the date of this letter, failing which SIPCOT shall proceed with further legal course of action to resume the plot under TNPPE Act.

Further, you are requested to remit the dues if any to SIPCOT.



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The said order is challenged in this Writ Petition.

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4. Having regard to the narration of facts supra, it becomes evident that the impugned order has become redundant in view of the subsequent order dated 05.03.2024 in W.A. No. 2952 of 2021 passed by the Division Bench of this Court and consequently, as it cannot be sustained, it is set aside. At the same time, it is made clear that dependent upon the outcome of the action taken in furtherance to the order dated 05.03.2024 in W.A. No. 2952 of 2021, the Respondent may determine the further measures to be taken in the matter in accordance with law.

In the result, the Writ Petition is disposed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petitions are closed.

No costs.

20.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

gsa



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To

The Managing Director,
State Industrial Promotion Corporation Limited,
No. 19-A, Rukmani Lakshmipathy Road,
Egmore,
Chennai – 600 028.



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P.D. AUDIKESAVALU, J.

gsa

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20.03.2024