

(2013) 09 MAD CK 0038

In the Madras High Court

Case No : Writ Petition No. 36786 of 2006 and M.P. No's. 1 of 2006 and 1 of 2013

G. Jaishankar Srinivasan

APPELLANT

Vs

The Tamil Nadu Small Industries Development Corporation
and The Project Officer

RESPONDENT

Date of Decision : 04-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0038

Hon'ble Judges : K. Ravichandrababu, J

Bench : Single Bench

Advocate : P.N. Prakash, for the Appellant; S. Yashwanth, for the Respondent

Final Decision : Disposed Off

Judgement

K. Ravichandrababu, J.—The petitioner seeks for a mandamus directing the respondents to accept the balance land cost and hand over

vacant possession of the developed plot bearing numbers FP 1 & 2 of a total extent of 11,425 sq. ft. in the industrial Estate, Ambattur and execute

the Sale deed in his favour. The case of the petitioner is that he was allotted a plot in FP. Nos. 1 and 2 by the proceedings dated 21.3.1996 by

directing a payment of Rs. 8,00,760/- on or before 31.3.1996. The petitioner claims that he has paid a sum of Rs. 1,95,000/- after obtaining

necessary permission and extension of time from the respondents. Thereafter, by a communication dated 26.6.1996, the first respondent had

temporarily kept the allotment order in abeyance. Thereafter, on 4.6.1998 a show cause notice was issued to the petitioner calling upon him to

show cause as to why the allotment order should not be cancelled and the plot be resumed and kept as common purpose area as per norms. It is

claimed by the petitioner that when he issued a reply to the said notice again another show cause notice came to be issued on 22.6.2006 by stating

that the allotment made in favour of the petitioner is in violation of the approved master plan and the area allotted to the petitioner falls within the

area reserved for specific purpose. Though the petitioner gave a reply on 2.8.2006, followed by another reply given through his counsel dated

12.8.2006, till this date, the respondents have not passed any order. Therefore, the present writ petition is filed seeking for mandamus as stated

supra.

2. The respondents have filed a counter affidavit and contended that the property allotted to the petitioner was not alienated to the first respondent

and it is still vested with the Collector, Thiruvallur District. It is further stated by them that the plot allotted to the petitioner in Survey No. 480 of

Ambattur Village has been classified as ""Kulam Porambkoke"" by the Thiruvallur District Administration and as such the alienation proposal by

SIDCO was rejected by the District Collector of Thiruvallur. Therefore, as of now, the said plot was not alienated and the request of the petitioner

for accepting the balance land cost and the execution of sale deed cannot be accepted at this stage.

3. Heard the learned counsel appearing for either side.

4. The grievance of the petitioner is that the balance sale consideration could not be paid by him not on his volition and on the other hand, it is

because of the order passed by the respondents dated 26.6.1996 whereby the allotment order given in favour of the petitioner was kept in

abeyance with immediate effect. Thus, it is contended when such an order has been passed keeping the allotment in abeyance, the petitioner

cannot be expected to make balance payment. Thus, he contended that the petitioner cannot be found fault with for not paying the balance sale

consideration.

5. On the other hand, it is contended by the learned counsel appearing for the respondents that the time limit upto 31.3.1996 was given in the

allotment order and the petitioner has not paid the amount within such time. Therefore, the show cause notice was issued. He further contended in

the very said show cause notice it was also stated that the land allotted to the petitioner also comes under the common purpose area (Fishing pond

area) which falls under 10% Reservation category under Chennai Metropolitan Development Authority norms. Thus on both the reasons, the allotment was sought to be cancelled.

6. Heard the learned counsel appearing for either side.

7. The prayer sought for in this writ petition is for allotment of the plot by receiving the balance sale consideration. In my considered view, such an

order cannot be straight away passed, especially under the circumstances that the matter is under the stage of show cause notice. No doubt, the

respondents have filed a counter and stated some reasons therein for not complying with the request of the petitioner. In my considered view, when

the respondents have issued a show cause notice and received a reply from the petitioner, necessarily they have to pass an order considering the

explanation given by the petitioner. Only thereafter, if any order is made against the interest of the petitioner, the petitioner can challenge the same

in a manner known to law. Till an order is passed, the petitioner cannot seek a mandamus as sought for in this writ petition.

8. Therefore, without expressing any view on the merits and contentions of the rival parties, I only direct the first respondent to pass an order in

pursuant to the show cause notice dated 22.6.2006. It is open to the petitioner to make further representation or further objections, if any, before

the first respondent within a period of three weeks from the date of receipt of copy of this order and after receiving the same and an order on

merits and in accordance with law shall be passed by the first respondent within a period of four weeks thereafter. With these observations, the

writ petition is disposed of. Consequently, the connected M.Ps. are closed. No costs.