

(2014) 09 MAD CK 0093
In the Madras High Court
Case No : Writ Appeal No. 1235 of 2014

J. Ranjith

APPELLANT

Vs

The Deputy General Manager (LPG) Sales

RESPONDENT

Date of Decision : 16-09-2014

Acts Referred:

Citation : (2014) 09 MAD CK 0093

Hon'ble Judges : Satish K. Agnihotri, J;M.M. Sundresh, J

Bench : Division Bench

Judgement

1. It is stated that the appellant was awarded with Indane Distributorship at Kaveripattinam, Krishnagiri Taluk as per the Letter of Intent (LOI), dated 18.02.2010, wherein a condition was prescribed that the appellant has to construct a godown at S. No. 125/1E, Erramalli Village, measuring 40 cents. Further, it was clearly stated that the LPG storage godown has to be constructed on the same site as mentioned in the application, failing which the LOI will stand withdrawn. The period of six months from the date of receipt of the letter was prescribed to commission the distributorship, including having showroom as well as LPG godown.

2. The appellant on account of some litigation, could not construct the godown on the specified site. The appellant made a request for change of the site, which was rejected. Thereagainst, the appellant preferred a writ petition, being W.P. No. 22320 of 2010, seeking a direction to permit the appellant to construct the godown in the new site in R.S. No. 749 at Payyur Village, Krishnagiri Taluk. The writ petition was allowed. However, a writ appeal, being W.A. No. 2220 of 2011 preferred by the authorities was allowed and the order dated 22.01.2011 passed in the writ petition was set aside, holding that the condition of having a godown on the same site, which was stated in the application, was mandatory. Thereagainst, the appellant preferred a petition for Special Leave to Appeal, being SLP(Civil) No. 26210 of 2012, which was dismissed by the Supreme Court of India on 14.09.2012.

3. According to the appellant, the appellant, thereafter, developed the site, which was originally mentioned in the application. While dismissing the writ petition, the Division Bench in the writ appeal granted further three months time to complete the construction of godown at the original site. Despite that, the construction could not be done. Thus, the authorities by an order dated 18.7.2013 withdrew the LOI with immediate effect. It was clearly stated in the order dated 18.7.2013 that even after the expiry of more than 4 months (3 years and 5 months from the date of LOI), the construction of godown/showroom could not take place.

4. Being aggrieved, the appellant preferred the instant writ petition, seeking a writ of certiorarified mandamus to quash the order dated 18.7.2013 and also to direct the respondents to permit the appellant to construct the godown at the original site. The learned Single Judge, having examined all aspects of the matter and also hearing the parties to the writ petition, came to the conclusion, as under:

"A mere perusal of the above said order clearly depicts that the petitioner, while submitting an application for LPG Distributorship, has given a declaration that in case he is not in a position to construct the godown on the site mentioned in the application i.e. at Survey No. 125/1E, Errahalli Village, Krishnagiri Taluk, his candidature could be rejected and in case the selection is made, the Letter of Intent (LOI) could be withdrawn. Based on the above said declaration, the petitioner's request for construction of godown in the alternative site covered in Survey No. 749, Payyur Village, Krishnagiri Taluk, has been rightly rejected by the respondent Corporation and thereafter, challenging the rejection order, when writ petition No. 22320 of 2010 was filed, though the learned Single Judge, by order dated 22.01.2011, quashed the rejection order, subsequently, the said order was set aside by the learned Division Bench of this Court. Aggrieved by the same, when petitioner preferred Special Leave Petition in SLP No. 26210 of 2012, the same was also dismissed by the Hon'ble Apex Court on 14.09.2012. Hence, as stated above, when petitioner's request, as sought for in the prayer, for construction of godown in the alternative place contrary to his own declaration, was turned down by the learned Division Bench of this Court and also by the Hon'ble Apex Court, I do not find any error or illegality in the impugned order passed by the Corporation in withdrawing the LOI issued to the petitioner."

5. We have heard the learned counsel for the appellant and examined the pleadings and documents appended thereto. It is evident that despite sufficient time granted by the authorities and further three months time granted by the Division Bench of this court in the writ appeal to complete the construction of godown, it could not be done and as such, the appellant does not deserve any sympathy. The contention of the appellant that the action of the respondents was against the principles of natural justice as before the issuance of the impugned letter dated 18.7.2013, no opportunity was afforded, is misconceived. The appellant was not only granted an opportunity of putting forth his case, but was

also granted more than reasonable time to satisfy the condition of having proper godown in the original site as stated in the application, within a period of six months. Therefore, we do not find any irregularity or illegality in the order granted by the learned Single Judge, warranting interference in this appeal.

This writ appeal is dismissed in limine.