

(2010) 12 GUJ CK 0271
In the Gujarat High Court

Case No : Special Civil Application No. 25269 of 2007 and Civil Application No. 3682 of 2008

Mamta Steels Ltd. (In Liquidation)

APPELLANT

Vs

Regional Manager and Others

RESPONDENT

Date of Decision : 02-12-2010

Acts Referred:

Citation : (2010) 12 GUJ CK 0271

Hon'ble Judges : Akil Abdul Hamid Kureshi, J

Bench : Single Bench

Advocate : R.D. Dave and Suresh kumar Ravi, for 1, for the Appellant; MB Gandhi and Chinmay M. Gandhi for R2 and ASPI M. Kapadia, for R3, for the Respondent

Final Decision : Dismissed

Judgement

Akil Kureshi, J.—Petition has been filed by a company in liquidation. Petitioner was allotted plot No. 1512 at Kerala GIDC Estate in the year 1992. Since the Petitioner did not pay the necessary charges, at one point of time, possession was taken back in the year 1998. Petitioner's dues were restructured. However, since according to GIDC, such dues were also not paid, possession was reclaimed on 16.12.2002.

2. It is the case of the Petitioner that on 26.11.2001, it had applied for change of date of allotment from 17.11.1992 i.e. the date of initial allotment to 8.1.1996 i.e. the date when the Company received GEB power connection. The case of the GIDC, however, is that no such prayer was made prior to 26.11.2003. In view of the discussion hereinafter, this controversy becomes insignificant.

3. Request of the Petitioner for change of date of allotment after one round of litigation before the High Court where he sought permission to pursue his representation came to be rejected by the Respondent by impugned order dated 17.8.2007. For rejecting the request, following two grounds have been

stated in the order:

I. That such request was made after the possession was taken over; and, II. That by the time, request was made, the Petitioner had already gone into liquidation.

4. Though these are the two grounds, on which the rejection order was passed, in the affidavit-in-reply, it is stated by GIDC that for the reasons stated by the Petitioner, no such shift in the date of allotment can be granted. It is specified that in other cases, change of date of allotment was allowed because for reasons attributable to GIDC, electricity could not be supplied to plot holders.

5. Counsel for the Petitioner submitted that both factual aspects on which the impugned rejection order was passed are incorrect. He relied on affidavits of the Petitioner and the documents annexed to contend that in large number of similar cases, GIDC had granted request to change of date of allotment.

6. On the other hand, learned Counsel for GIDC opposed the petition contending that there is no provision for change of date of allotment and request of the Petitioner was belated. In other cases, such request was granted where for reasons attributable to GIDC electric connection could not be given to plot holders.

7. It is not in dispute that Petitioner had approached this Court for similar relief but withdrew the petition for pursuing his representation before the GIDC. Question of maintainability of the petition will arise. Be that as it may, I have examined the issues on merits also. At the outset, I may record that if the case of the Petitioner that he had applied for change of date of allotment on 15th March, 2001 is correct, the grounds stated for rejection of the prayer would not factually be valid. It is, however, the case of the GIDC that such prayer was made for the first time in November, 2003. For the purpose of this order, I am prepared to proceed on the basis that the Petitioner's application was actually made in the year 2001 and that both the grounds stated in the impugned order were therefore factually not accurate.

8. Despite this, I am of the opinion that no direction can be given in favour of the Petitioner. Firstly, it is not in dispute that twice the possession of the plot was taken over due to non-payment of the legal charges to the GIDC. Eventually, GIDC repossessed the plot in December, 2002. Admittedly, prior to March, 2001, Petitioner had never raised the issue of change of date of allotment. The Petitioner requested for such change on the ground that he succeeded in getting GEB power connection only in the year 1996. For 4 years, therefore, he could not start his industry on the plot allotted by GIDC. It is not even the case of the Petitioner that he failed to obtain GE B connection for any reason which can be attributed to GIDC. If that is so, simply because, for some reason or the other, GEB did not grant power connection to the Petitioner. Request of the Petitioner for the change of the date would not be acceptable. Whatever the dispute between the Petitioner and the GEB, GIDC cannot be made to lose its legal charges on

account of delayed installations for electric connection. Affidavit of GIDC also explains that in other cases, change of date was allowed when the plotheolders could not obtain GEB connection on account of reasons attributable to GIDC. The case of the Petitioner is clearly distinguishable.

9. In the result, petition fails and is dismissed. Rule discharged.