(2018) 02 KAR CK 0106

In the Karnataka High Court

Case No : 23327 of 2017 (GM-KIADB)

M/S. BALAJI INDUSTRIES Vs KARNATAKA INDUSTRIAL AREAS? DEVELOPMENT BOARD

Date of Decision : 06-02-2018

Acts Referred:

Citation : (2018) 02 KAR CK 0106

Hon'ble Judges : A S Bopanna

Bench : Single Bench

Advocate : RAJESWARA P N, B B PATIL

Final Decision : Disposed off

Judgement

1. The petitioner is before this Court assailing the order dated 17.04.2017 whereunder the allotment made in favour of the petitioner is cancelled.

2. The petitioner was allotted the plot bearing No. 59, 2nd Phase, Sector II, Bidadi Industrial Area, Bengaluru through the allotment letter dated

12.07.2012. The payment ultimately was demanded through the communication dated 16.06.2016 and another communication dated 02.02.2017

was also issued to the petitioner. Since the balance amount of 80% towards cost of the land had not been paid by the petitioner, the respondents

through the order dated 17.04.2017 has cancelled the allotment. The petitioner therefore claiming to be aggrieved is before this Court in this

petition.

3. The respondents have filed their objection statement opposing the claim as put forth in the petition. The respondents have referred to the manner

in which a consideration was made to allot the plot to the petitioner and also the time frame provided for payment of the amount. It is pointed out

that despite the indulgence shown by the respondents, the petitioner had failed to pay the balance amount towards the 80% of cost and as such the

cancellation was required to be made as the payment was not made even after the grant of additional 45 days from the change in constitution that

had been permitted by the respondents. In that view, it is contended that the claim as put forth by the petitioner is not justified and the writ petition

is liable to be rejected.

4. Before adverting to the claim as put forth, what is also necessary to be taken note is that the petitioner while seeking for direction through

I.A.No.1/2017 has also produced the communication dated 01.07.2017 addressed to the petitioner by the Karnataka State Financial Corporation

wherein the petitioner has been sanctioned the financial assistance subject to the terms and conditions indicated therein. However, such financial

assistance is indicated to be granted subject to the petitioner furnishing a letter from the respondents restoring the allotment inasmuch as the

cancellation order has already been issued.

5. In the light of the above, it is no doubt true that as seen from the allotment letter, the allotment was made as far back as on 12.07.2012.

However, the very communication subsequently addressed by the respondents on 15.06.2016 and 02.02.2017 will disclose that in the

circumstance as indicated therein, the respondents had permitted the change in Constitution to be incorporated and in that circumstance, the

amount of 80% of the cost payable was permitted to be paid along with interest as permitted under the Regulations. It is despite the said

indulgence, when the petitioner had not availed the opportunity, the respondents have cancelled the allotment. The petitioner no doubt has put forth

certain contentions to indicate the reason for delay which essentially are the personal problems relating to the family of the Managing Director.

However, what is to be taken note as a mitigating circumstance at this point is that the offer that was being put forth by the petitioner to secure the

financial assistance from the Karnataka State Financial Corporation has been fruitful during the pendency of this petition. A perusal of the

document produced along with I.A.No.1/2017 will disclose that the Karnataka State Financial Corporation having considered the request of the

petitioner has agreed to provide the financial assistance. If the amount as indicated therein is taken into consideration, the amount payable to the respondents would be available to be paid through the financial assistance. However, the impediment at present is the cancellation letter dated

17.04.2017 Annexure-A due to which the KSFC would not be in a position to sanction the amount. As pointed out from the letter of KSFC

dated 01.07.2017, it is seen that they have offered the loan which is being sanctioned towards the allotment of the plot for the industrial activity of

the petitioner.

6. Therefore, taking into consideration all these aspects of the matter and on taking note that the KSFC has taken a decision to sanction the

amount subject to the respondents issuing a letter in that regard, what is also necessary to be taken into consideration in that regard is, in that

circumstance in any event the respondents as per the Regulations would be entitled to impose the interest on the outstanding amount payable by the

petitioner towards the balance cost and in that circumstance, no loss would be caused to the public exchequer.

7. Therefore, keeping all these aspects in view, in order to provide an opportunity to the petitioner to complete the transaction with the KSFC,

secure the loan and pay the amount to the respondents so as to secure the lease-cum-sale of the plot in question, the order impugned dated

17.04.2017 is set aside. The respondents are directed to consider the case of the petitioner in terms of the Regulations by imposing the interest as

per the Regulations on the outstanding amount and issue a fresh demand for the said amount from the petitioner, for payment. Thereupon, the

petitioner shall produce such letter to the KSFC, complete the loan transaction therein and pay the balance amount to the respondents. While so

calculating the amount and demanding the same, the respondents may also indicate the time frame within which the loan is to be secured from the

KSFC and to be paid to the respondents. If the payment in that regard is not made within the time frame to be fixed by the respondents, in such

event the respondents are reserved the liberty to take appropriate action in accordance with law including cancellation at that stage.

With the above directions, the petition stands disposed of.

In view of disposal of the main petition, the applications in I.A. No.1/17 and I.A. No.2/17 also stand disposed of.