

i.Mumthaz Vs. the Kerala Small Industries Development Corporation Ltd

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SooperKanoon Citation : sooperkanoon.com/1017805

Court : Kerala

Decided On : Jul-31-2013

Judge : Honourable Mr.Justice a.M.Shaffique

Appellant : i.Mumthaz

Respondent : The Kerala Small Industries Development Corporation Ltd

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE WEDNESDAY, THE 31ST DAY OF JULY 2013 9TH SRAVANA, 1935 WP(C).No. 8502 of 2013 (K) ----- PETITIONER: ----- I.MUMTHAZ, M/S.OASIS RUBBER INDUSTRIES, INDUSTRIAL ESTATE CHANGANACHERRY, KOTTAYAM DISTRICT-686106. BY ADV. SRI.ANIL K.NARENDRA RESPONDENTS: ----- 1. THE KERALA SMALL SCALE INDUSTRIES DEVELOPMENT CORPORATION LTD (SIDCO), P.B.NO.50, 6TH FLOOR HOUSING BOARD BUILDINGS, SANTHI NAGAR THIRUVANANTHAPURAM-695001 REP. BY ITS MANAGING DIRECTOR.

2. THE ESTATE MANAGER KERALA SMALL INDUSTRIES DEVELOPMENT CORPORATION LTD (SIDCO) INDUSTRIAL ESTATE, CHANGANACHERRY KOTTAYAM DISTRICT-686106.

3. THE ASSISTANT EXECUTIVE ENGINEER KERALA STATE ELECTRICITY BOARD ELECTRICAL SUB DIVISION, THENGANA, THENGANA P.O. KOTTAYAM DISTRICT-686536.

4. MATHEW ANTONY M/S.DAKSHIN RUBBER WORKS, INDUSTRIAL ESTATE CHANGANACHERRY, KOTTAYAM DISTRICT-686 106. R1,R2 BY ADV.SRI.R.T.PRADEEP R3 BY SRI.S.SHARAN,SC,K.S.E.BOARD R3 BY ADV. SRI. NAZEEBA.O.H. SC KSEB R4 BY ADV. SRI.JOBI JOSE KONDODY R4 BY ADV. SRI.SANTHOSH MATHEW THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-07-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: VK WP(C).No. 8502 of 2013 (K)

----- APPENDIX ----- PETITIONER(S)' EXHIBITS

----- EXHIBIT P1: COPY OF PROCEEDINGS DATED 14 7.1992 OF THE 1ST RESPONDENT ALLOTING 283 29 SQ.METERS (7 CENTS) OF VACANT LAND TO THE PETITIONER EXHIBIT P2: COPY OF PROCEEDINGS DATED 7 10.1999 OF THE 1ST RESPONDENT ALLOTING 42 40 SQ.METERS (1 CENTR) OF VACANT LAND TO THE PETITIONER EXHIBIT P3: COPY OF AGREEMENT DATED 14 7.1992 ENTERED INTO BETWEEN THE PETITIONER AND THE 1ST RESPONDENT, IN RESPECT OF THE LAND COVERED BY EXHIBIT P1 PROCEEDINGS EXHIBIT P4: COPY OF AGREEMENT DATED 19 10.2001 ENTERED INTO BETWEEN THE PETITIONER AND THE 1ST RESPONDENT, IN RESPECT OF 3.SQ.METERS (0.8 CENTS) OF LAND COVERED BY EXHIBIT P2 PROCEEDINGS EXHIBIT P5: COPY OF PROCEEDINGS DATED 21 4.1992 OF THE 1ST RESPONDENT, ALLOTING 202 35 SQ.METERS (5 CENTS) OF VACANT LAND TO THE 4TH RESPONDENT EXHIBIT P6: COPY OF PROCEEDINGS DATED 9 2.1993 OF THE 1ST RESPONDENT, ALLOTING 121 4 SQ.METERS (3 CENTS) OF LAND TO THE 4TH RESPONDENT EXHIBIT P7: COPY OF AGREEMENT DATED 18 5.1992 ENTERED INTO BETWEEN THE 4TH RESPONDENT AND THE 1ST RESPONDENT, IN RESPECT OF THE LAND COVERED BY EXHIBIT P5 PROCEEDINGS EXHIBIT P8: COPY OF AGREEMENT DATED 10 6.1993 ENTERED INTO BETWEEN THE 4TH RESPONDENT AND THE 1ST RESPONDENT, IN RESPECT OF THE LAND COVERED BY EXHIBIT P6 PROCEEDINGS EXHIBIT P9: COPY OF ROUGH SKETCH DATED NIL,

SHOWING THE LIE OF THE PLOTS ALREADY ALLOTTED TO THE PETITIONER AND THE 4TH RESPONDENT, THE ABUTTING VACANT PLOTS AND ALSO THE INTERNAL ROAD IN THE INDUSTRIAL ESTATE AT CHANGANACHERRY. EXHIBIT P10: COPY OF FEW PHOTOGRAPHS OF THE INDUSTRIAL UNITS OF THE PETITIONER AND THAT OF THE 4TH RESPONDENT, THE ABUTTING VACANT PLOTS AND ALSO THE INTERNAL ROAD IN THE INDUSTRIAL ESTATE EXHIBIT P11: COPY OF COVERING LETTER DATED 29 11.2008 OF THE 1ST RESPONDENT ADDRESSED TO THE 4TH RESPONDENT, ALONG WITH THE REVISED SKETCH ENCLOSED THEREWITH EXHIBIT P12: COPY OF OBJECTION DATED 15 12.2008 SUBMITTED ON BEHALF OF 4TH RESPONENT EXHIBIT P13: COPY OF COMMUNICATION DATED 12 3.2009 OF THE 1ST RESPONDENT ADDRESSED TO THE 4TH RESPONDENT EXHIBIT P14: COPY OF COMMUNICATION DATED 21 3.2009 OF THE 2ND RESPONDENT ADDRESSED TO THE 4TH RESPONDENT VK WP(C).No. 8502 of 2013 (K) ----- EXHIBIT P15: COPY OF WPC.NO.9516 OF 200.FILED BY THE 4TH RESPONDENT DATED 23 3.2009, WITHOUT ITS EXHIBITS EXHIBIT P16: COPY OF COUNTER AFFIDAVIT DATED 10 6.2009 IN WPC.9516/2009, FILED BY THE PETITIONER HEREIN, WITHOUT ITS EXHIBITS EXHIBIT P17: COPY OF REVISED SKETCH DATED NIL PRODUCED IN WPC.9516/2009, ON BEHALF OF THE 1ST RESPONDENT HEREIN. EXHIBIT P18: COPY OF JUDGMENT OF THIS HONOURABLE COURT DATED 8 8.2012 IN WPC.9516/2009 EXHIBIT P19: COPY OF JUDGMENT OF THIS HONOURABLE COURT DATED 6 11.2012 IN WA.1695/2012 EXHIBIT P20: COPY OF STATEMENT DATED 17 12.2012 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT EXHIBIT P21: COPY OF PROCEEDINGS DATED 8 3.2013 OF THE 1ST RESPONDENT EXHIBIT P22. COPY OF MEMORANDUM DATED 15 9.2012 IN W.A. NO.1695 OF 2012.ALONG WITH ANNEXURES A1 AND A2. RESPONDENT(S)' EXHIBITS ----- / TRUE COPY / P.A. TO JUDGE VK A.M.SHAFFIQUE,J.

----- W.P.(C).No.8502 OF 2013.----- Dated this the 31st day of July, 2013 JUDGMENT Petitioner challenges Ext.P21 order passed by the Managing Director of the Kerala Small Industries Development Corporation

Ltd.(SIDCO) inter alia issuing the following directions:

1. To cancel allotment of 1.05 cents (42.40 m²) as per proceedings not IE/CHRY/OR/7604/98 dt.7.10.1999 i.e; plot No.2 specified in the sketch attached herewith.
2. To widen the internal road with a width of 4.5. meters upto the boundary of the plot No.3 by utilizing a portion of plot No.3A, plot No.2 and plot No.5 as per the sketch.
3. In addition to widening of the road to 4.5 mtr. a bell mouth to be provided to the plot No.1 of Smt.I.Mumtaz, M/s.Oasis utilising a portion of area of plot No.(2).
4. The remaining area of Plot No.2 after providing bell mouth and plot 5 after widening of roads to be allotted to Sri.Mathew Antony, M/s.Dakshin Rubber Works.
5. Plot No.3 to be allotted to Smt.I.Mumtaz, M/s.Oasis Rubber Industries. W.P.(C).No.8502 OF 201.2 6.After the land is allotted based on the above decisions compound wall should be constructed by Sri.Mathew Antony, M/s.Dakshin Rubber Works where bell mouth is provided to avoid further dispute among the parties.
7. For additional allotment of land on the basis of the judgment both the parties shall remit land value at current rates. 8.Sri.Mathew Antony, M/s.Dakshin Rubber works is permitted to erect the proposed transformer in plot No.5 marked in the sketch attached herewith.

2. In fact this case is having a very long history as evident from Ext.P8 judgment and the judgment of the Division Bench of this Court produced as Ext.P19. The Division Bench in Ext.P19 had given an opportunity for the parties to submit their respective contentions before the Managing Director in order to make their suggestions, for giving a quietus to the issue and based on the materials available, the Managing Director had issued Ext.P21 order. The main contention urged by the petitioner is that when the requirement of the respondent was only to put a transformer he does not require the land which is marked as plot No.2 in Ext.P9,

whereas it was enough for the contesting respondent W.P.(C).No.8502 OF 201.3 to install the transformer in plot No.5 itself. But the fact remains that the respective contentions of the parties were heard by the Managing Director and an order had been passed. At this point of time I do not think that a further consideration of the matter on the factual circumstances mentioned by the petitioner is required to be considered. The respondent authority is entitled to consider the issues keeping in mind the terms of contract between the parties and it is always open for them to make suitable arrangements in respect of the land allotted to enable the parties to have a peaceful possession of the premises allotted to them. For the purpose of resolving a dispute if some swapping of land is required and it is done by the authority concerned, I do not find that this Court should exercise its discretion under Article 226 in the form of a judicial review to reconsider Ext.P21 order. In that circumstances, I do not intend to interfere with the impugned order and hence the writ petition is dismissed. A.M.SHAFIQUE, JUDGE cms

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