

Speridian Technologies Private Ltd. vs Electronics Technology Parks - Kerala (Technopark)

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SooperKanoon Citation : sooperkanoon.com/1492702

Court : Kerala

Decided On : Sep-29-2022

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/20290/2022

Appellant : Speridian Technologies Private Ltd.

Respondent : Electronics Technology Parks - Kerala (Technopark)

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
THURSDAY, THE 29TH DAY OF SEPTEMBER 2022 / 7TH ASWINA,
1944 WP(C) NO. 20290 OF 2022 PETITIONER SPERIDIAN
TECHNOLOGIES PRIVATE LTD. REPRESENTED BY ITS MANAGING
DIRECTOR, HRISHIKESH S, AGED 60, S/O SASIBHUSHANAN NAIR,
HAVING ITS REGISTERED OFFICE AT G-2, THEJESWANI BUILDING,
TECHNOPARK CAMPUS, KARYAVATTOM,
THIRUVANANTHAPURAM-695581. BY ADVS. R.T.PRADEEP NAIR
AJAY KRISHNAN K.C.HARISH M.BINDUDAS RESPONDENTS 1

ELECTRONICS TECHNOLOGY PARKS - KERALA (TECHNOPARK), REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER, TECHNOPARK CAMPUS, THIRUVANANTHAPURAM-695581. 2 CHIEF EXECUTIVE OFFICER ELECTRONICS TECHNOLOGY PARKS-KERALA (TECHNOPARK), TECHNOPARK CAMPUS, THIRUVANANTHAPURAM-695581. 3 PRINCIPAL SECRETARY DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001. W.P(C) No.20290 of 2022 2] ADDL.R4 PRINCIPAL SECRETARY, DEPARTMENT OF INDUSTRIES ,SECRETARIAT, THIRUVANANTHAPURAM-695 001. ADDL.R5 PRINCIPAL SECRETARY DEPARTMENT OF AGRICULTURE ,SECRETARIAT, THIRUVANANTHAPURAM ADDL.R6 STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, SECREATARIAT, THIRUVANANTHAPURAM (IMPLEADED AS PER ORDER DATED 22-09-2022 IN IA BY ADVS. K.V.RASHMI ANIL THOMAS(T) SRI.Y.JAFFARKHAN SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.09.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P(C) No.20290 of 2022 3]

JUDGMENT

Dated this the 29th day of September, 2022 The petitioner is a Private Limited Company and is engaged in the service of Information Technology. An extent of 2 Acres of property was leased out by the 1st respondent Electronics Technology Parks-Kerala to the petitioner in the year 2010 on a land cost of 2.40 Crores. The 1st respondent Electronics Technology Parks-Kerala (Technopark) is an instrumentality of the State functioning with the objective of setting up Technoparks in Kerala providing infrastructure facilities to entrepreneurs in the IT field.

2. The grievance of the petitioner is that after receiving

2.40 Crores from the petitioner, respondents 1 and 2 have executed a lease deed in the year 2010. But, the respondents have neither registered the lease deed nor

have handed over the possession of the property. When the petitioner approached this Court, this Court passed Ext.P2 judgment pursuant to which the lease deed was registered and the property was delivered

W.P(C) No.20290 of 2022 4] to the petitioner in the year 2015. The petitioner started construction of the building after obtaining exemption from the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008.

3. The petitioner states that the respondents have

secured exemption from the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008 for an extent of 18 Cents only, in the year 2008. The petitioner has obtained all statutory clearances for construction of buildings. One Acre and 20 Cents of land possessed by the petitioner is still remaining as paddy land in the Revenue records, which creates difficulty for the petitioner to expand its business activities. Therefore, the petitioner has approached this Court seeking to direct respondents 1 and 2 to secure exemption from the Act 28 of 2008 for the remaining portion of the leasehold property of the petitioner, from the 3rd respondent.

4. The counsel for the petitioner argued that it is incumbent upon respondents 1 and 2 to obtain exemption from

W.P(C) No.20290 of 2022 5] the provision of the Act, 2008 for the entire extent of leasehold property. Respondents 1 and 2 have received consideration from the petitioner and the action of the respondents in not obtaining exemption from the Act, 2008 is highly arbitrary and illegal.

5. The counsel for the petitioner pointed out that the lease

for two Acres of land was of the year 2010 and the petitioner was granted permission to construct buildings only in an extent of 18 Cents of land and that too in the year 2018. The remaining land taken on lease by the petitioner spending huge money, cannot be utilised for any activity in the absence of respondents 1 and 2 securing exemption from the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008.

6. The Government Pleader entered appearance and

resisted the writ petition. The Government Pleader controverted all the material allegations made by the petitioner in the writ petition. On behalf of the Government, it was submitted that an extent of 36.44 Hectares of land was taken over by the W.P(C) No.20290 of 2022 6] Technopark by negotiated purchase and by land acquisition procedure. The land acquisition was completed in the year 2008-2009. A portion of the acquired land was categorised as Nilam.

7. As per G.O(Ms) No.40/2018/Rev dated 03.02.2018,

permission was granted by the Government for conversion of 11.7450 Hectares (29.02 Acres) of land, out of which 2.25 Acres was earmarked for water conservancy measures. Out of the remaining area, only an extent of 2.5164 Hectares of land were noted as paddy land.

8. The Government Pleader submitted that the Technopark has submitted an application for conversion of 24.7071 Hectares which includes the land in question. The

State Level Committee constituted under the Kerala Conservation of Paddy Land and Wetland Act, 2008 has rejected the proposal for conversion stating that the acquired land is low lying and these are wetland areas serving as reservoirs. By converting these areas, it would adversely affect W.P(C) No.20290 of 2022 7] the environment and farming in nearby areas. The Government Pleader submitted that the entire matter is now pending consideration before the highest officials of the Executive and a decision will be taken in due course of time.

9. I have heard the learned counsel for the petitioner, the learned Standing Counsel for respondents 1 and 2 and the learned Government Pleader for respondents 3 to 6.

10. It is evident that the petitioner has taken on lease the

land in question for starting an industry in Information Technology. The petitioner has spent considerable amount of money towards lease rent. The land is designed

by respondents

1 and 2 as a Technopark. The 1st respondent is an instrumentality of the State. The intention of establishment of Technopark is for the overall development of Industries in Information and Technology in the State of Kerala. In such circumstances, it is highly necessary that conducive measures be taken for the industries like the petitioner to carry out their business activities at optimum level. The delay due to

W.P(C) No.20290 of 2022 8] technicalities in granting permission to the petitioner and similarly situated persons to utilise land in the Technopark to the full potential cannot be in public interest. In the facts and circumstances of the case, the writ petition is disposed of directing additional respondents 4 to 6 to finalise the proceedings for getting exemption of the land leased out to the petitioner from the provisions of the Kerala Conservation of

Paddy Land Wetland Act, 2008, within a period of three months. Sd/- N. NAGARESH, JUDGE smm/ 07.10.2022 W.P(C) No.20290 of 2022 9] APPENDIX OF WP(C) 20290/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF LEASE DEED DATED 29.09.2010 AS BETWEEN PETITIONER AND 1ST RESPONDENT. Exhibit P2 TRUE COPY OF THE JUDGMENT DATED 15.07.2014 IN WPC NO.23021/2013. Exhibit P3 TRUE COPY OF THE G O (MS)

NO.540/2018/REVENUE DATED 3.2.2018 GRANTING EXEMPTION FROM THE PROVISIONS OF ACT 28 OF 2008 FOR CONVERSION OF 91.05 ARES OF PROPERTY COMPRISED IN PHASE-III.

Exhibit P4 TRUE COPY OF THE NO OBJECTION

AUTHORITY OF INDIA LTD. DATED 6.12.2018. Exhibit P5 TRUE COPY OF THE BUILDING PERMIT DATED 8.4.2019 ISSUED BY THE 2ND RESPONDENT. Exhibit P6 TRUE COPY OF TABULAR TABLE OF THE EXPENSES INCURRED TOWARDS EACH ITEM FOR AN AMOUNT OF RS.1,18,80,077/- EXHIBIT P7 COPY OF THE ADVOCATE NOTICE DATED 9.3.2022 TO RESPONDENTS 1 AND 2