



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P (MD) No.19407 of 2017

1.Jones Victor Joseph

2.Joseph Nadar

3.Victoria Joseph

4.Alphonsa Rex

5.Martin

6.Jenifer Rethna Ranjitham

.. Petitioners

Vs.

1. The Director,
Town and Country Planning,
No.807, Annasalai,
Chennai - 600 002.

2. The Member Secretary,
Thanjavur Local Planning Authority,
33, Rajappa Nagar, Medical College Road,
Thanjavur - 613 007.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents No.1 and 2 to release the petitioners' land extent of 3.97.05 Hectors in Survey Numbers: 227/2E2, 227/2E4, 227/2E6, 227/1G, 227/2E1B, 227/2E3, 227/2E5 and 227/2E7 earmarked for the "Nanjikottai Detailed Development Plan No.2" treating the "Nanjikottai Detailed Development Plan No.1 and 2" of Thanjavur Local Planning area as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioners : Mr.R.Karunanidhi

For Respondent No.1 : Mr.M.Alagathevan,
Special Government Pleader.

For Respondent No.2 : Mr.G.Muthukannan

**ORDER**

The prayer sought for in this writ petition is to direct the respondents 1 and 2 to release the petitioners' land to an extent of 3.97.05 Hectors in Survey Nos.227/2E2, 227/2E4, 227/2E6, 227/1G, 227/2E1B, 227/2E3, 227/2E5 and 227/2E7 earmarked for the "Nanjikottai Detailed Development Plan No.2" treating the "Nanjikottai Detailed Development Plan No.2" of Thanjavur Local Planning area as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2.The petitioners would state that on 22.06.2011, Nanjikottai Detailed Development Plan No.2 have been prepared by the respondents and the petitioners' lands were also earmarked and a publication in Government Gazette was issued in G.O.No.23, dated 22.06.2011.

3.The petitioners would claim that pursuant to the notification, the respondents have not taken any steps to acquire the lands, nor issued any notice for acquisition of lands under sections 36 and 37 of the Act. Since no action was taken for a period of six years, as per Section 38 of the Act, the entire proceedings lapsed. Hence, the petitioners made representation to the second respondent dated 06.10.2017 requesting them to release the land. Since, no order was passed, the present writ petition has been filed for the relief as stated supra.

4.Mr.R.Karunanidhi, learned counsel for the petitioners would submit that in similar facts in respect of the notification issued for Kochadai Detailed Development Plan No.3, the land owner in respect of the land in old Survey No.79/1 (Town Survey No.17/1B) in Kochadai village, filed a writ petition in W.P.(MD) No.4753 of 2017 (**P.Babu vs. The Director, Town and Country Planing, Chennai and another**) by relying on the earlier order passed by the Division Bench of this court reported in **(2011) 8 MLJ 437 [Commissioner, Aruppukottai Municipality vs. K.S.Kamakshi Chetty ad others]** directed the respondents therein to release his lands. The order passed by this court would squarely apply to the facts of this case.

5.Mr.M.Alagathevan, learned Special Government Pleader, appearing for the first respondent as well as Mr.G.Muthukannan, learned counsel appearing for the second respondent have not disputed the proposition suggested by the learned counsel appearing for the petitioners.

6.Considering the submissions made on either side and also keeping in mind the earlier order passed by this Court in similar matter, this Court is of the opinion that the petitioners are entitled for the relief sought for in the writ petition.



7. In that view, the writ petition is allowed. The respondents are directed to release the petitioners' land to an extent of 3.97.05 Hectors in Survey Nos. 227/2E2, 227/2E4, 227/2E6, 227/1G, 227/2E1B, 227/2E3, 227/2E5 and 227/2E7 earmarked for the "Nanjikottai Detailed Development Plan No.2" treating the "Nanjikottai Detailed Development Plan No.2" of Thanjavur Local Planning area by passing a specific order within a period of two weeks from the date of receipt of the order copy and communicate the same to the petitioner. No costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Director,
Town and Country Planning,
No.807, Annasalai,
Chennai - 600 002.

2. The Member Secretary,
Thanjavur Local Planning Authority,
33, Rajappa Nagar, Medical College Road,
Thanjavur - 613 007.

+ 1 cc TO Mr.R.Karunanidhi , Advocate in SR No. 84432
+1cc to The Special Government Pleader in SR.No.84815

smn

AE/SV MMS/SAR1/07.11.2017/3P/5C

**ORDER MADE IN
W.P (MD) No.19407 of 2017
31.10.2017**