



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

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THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD) No.8272 of 2020

T.Jothimani

... Petitioner

Vs.

1.The Director of Town and Country Planning,
No.807, Anna Salai, Chennai.

2.The District Collector,
Madurai District, Madurai.

3.The Member Secretary,
Madurai Local Planning Authority,
Corporation Officer Building,
Anna Maligai 3rd Floor, Madurai.

4.The Commissioner,
Madurai Corporation, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, to direct the respondent No.1 and 3 to release the petitioner's land in R.S.Nos.90/1A and 90/1B1 situated at Madurai East Taluk, Vandiyur Bit-I Village, Vandiyur, Madurai under the Vandiyur Detail Development Plan No.3 (DTCP 5/20120) Park-II to have lapsed by operation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) in light of the Judgment of this Court in Commissioner Aruppukottai Municipality Vs Kamakshishelty reported in 2011(8) MLJ 437 within the time frame as fixed by this Court.

For Petitioner : Mrs.B.Bhuvaneshvari

For Respondents : Mrs.S.Srimathy,

Special Government Pleader for R1 & R2
Mr.R.Murali

Standing Counsel for R4

ORDER

Heard the learned counsel on either side.

2.The petitioner's case is that the petition mentioned property was originally covered by Vandiyur Detailed Development Plan. It appears that the property was ear-marked as a play ground. The Gazette notification was published on 05.09.2012. It is not in dispute that no steps for acquiring the land were initiated within three years from the date of publication. Therefore, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the land is deemed to be released on 05.09.2015. We are now in



2020. The petitioner is unable to develop her property, because of the cloud cast on her property by the said plan.

3. This Court had given effect to the statutory mandate set out in the Section 38 of the Act in so many cases. The petitioner's counsel has enclosed a few orders in the typed-set of papers. One such case namely, order dated 21.02.2019, made in W.P.(MD)No.13636 of 2017 (P.Saravanakumar Vs. The Director of Town and Country Planning and three others) squarely applies for the case on hand, because it is in respect of the adjacent property.

4. The writ petition stands allowed. This Court declares that the land in question stands released by virtue of Section 38 of the Act. There is no need for the respondent to issue any formal declaration. The declaration given by this Court is sufficient. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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+1 CC to M/s.R. MURALI, Advocate (SR-15874[F] dated 03/09/2020)

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