



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2020

CORAM:

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

W.P. (MD)No.10691 of 2020

WEB COPY

1.Vanakkamary
2.Benitta Rani Shanthi
3.Babtista Linnet

... Petitioners

Vs

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

2.The Member Secretary,
Thanjavur Local Planning Authority,
A2, 7th Street, Arulanantha Nagar,
Thanjavur,
Thanjavur - 613 007.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to release the petitioners' land with an extent of 20.76 Ares in Survey Numbers : 67/4E situated at Nanjikottai Village, Thanjavur District earmarked for the "Nanjikottai Detailed Development Plan No.1" by treating the "Nanjikottai Detailed Development Plan No.1" 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 Respondents : Mr.S.Angappan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The petitioner claims to be the owner of the petition mentioned property. It was earmarked in Nangikottai Detailed Development Plan No.1, Thanjavur Local Planning area, for the purpose of park and road.

3.The gazette notification was published on 13.04.2005. As rightly pointed out by the learned counsel appearing for the petitioner within three years from the date of publication, acquisition proceedings must be taken. If such acquisition



proceedings are not taken, the land is said to be deemed to have been released.

4.The petitioner's counsel draws my attention to Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and it reads as follows:-

38.Release of land

"If within three years from the date of publication of the notice in the Tamil Nadu Government Gazette under Section 26 or Section 27.

(a)No declaration as provided in Sub-Section (2) of Section 37 is published in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice; or

(b) Such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation"

5.The case on hand is covered by a catena of decisions of this Court. Therefore, applying the statutory mandate under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, I have to necessarily grant the relief sought for. The respondents are directed to issue appropriate proceedings in this regard at the earliest releasing the land in question.

6.With this direction, the Writ Petition stands allowed.
No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rm

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 SPL GP (SR-18256[F] dated 28/09/2020)

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VB (13.10.2020) 3P 4C