



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE **ABDUL QUDDHOSE**

W.P. (MD) No. 14735 of 2020

WEB COPY

N. Prabhakaran

... Petitioner

Vs

1. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
No. 807, Anna Salai, Chennai 2.

2. The Commissioner,
Madurai Corporation,
Madurai, Madurai District.

3. The Deputy Director of Town and Country Planning,
No. 4, Hakkim Ajmalkhan Road,
Chinna Chokkikulam,
Madurai 625 002.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, to declare the reservation made in respect of the petitioner's land to an extent of 1 Acre and 25 cents situated in Survey No. 279/1 in Block No. 29, Ward No. 22, T.S. No. 6/1A, 6/2 and 6/6 and to an extent of 14 cents situated in Survey No. 283/2 in Block No. 29, Ward No. 22, T.S. No. 2/2 at Madakulam, Thirupparankundram Taluk, Madurai District forming part of the Madurai Local Planning Area, Ponmeni Detailed Development Plan No. III, 1994 had lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act 35 of 1974).

For Petitioner : Mr. Venkatesh Kumar
for M/s. Ajmal Associates
For Respondents : Mrs. Rajeswari
Government Advocate (for R1 and R3)
Mr. R. Murali
Standing Counsel (for R2)

ORDER

This writ petition has been filed for a Writ of Declaration, to declare the reservation made in respect of the petitioner's land to an extent of 1 Acre and 25 cents situated in Survey No. 279/1 in Block No. 29, Ward No. 22, T.S. No. 6/1A, 6/2 and 6/6 and to an extent of 14 cents situated in Survey No. 283/2 in Block No. 29, Ward No. 22, T.S. No. 2/2 at Madakulam, Thirupparankundram Taluk, Madurai District forming part of the Madurai Local Planning Area, Ponmeni Detailed



Development Plan No.III, 1994 had lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act 35 of 1974).

2. Heard Mr.C.Venkatesh Kumar, learned counsel appearing for the petitioner, Mrs.Rajeswari, learned Government Advocate appearing on behalf of the respondents 1 and 3 and Mr.R.Murali, learned Standing Counsel appearing on behalf of the second respondent.

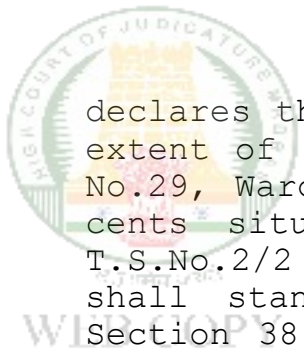
3. It is the case of the petitioner that he is the absolute owner of the aforementioned lands. According to the petitioner, initial land acquisition notice was issued by the land acquisition authorities in the year 1991 for the aforesaid lands. However, no action has been taken within a period of three years, thereafter and hence, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the Government has to release the aforesaid lands from acquisition. In such circumstances, this writ petition has been filed.

4. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 reads as follows:

"Release of land-If within three years from the date of the 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. A learned single Judge of this Court in **W.P (MD) .No. 5221 of 2009** reported in **2010 (2) CTC 510** in the matter of **V.Nagamani and another Vs., The Director of Town and Country Planning, Chennai and others** involving the similar issue and the same Ponmeni Detailed Development Plan No.III, 1994 at Madakulam, Thirupparankundram Taluk, Madurai District has held that, since no action has been taken within a period of three years subsequent to the initial land acquisition notice issued in the year 1991, the Government has to release the land from acquisition as per Section 38 of the Tamil Nadu Town and Country Planning Act. The lands, which are the subject matter of the petition, also fall within the same Scheme, namely 'Ponmeni Detailed Development Plan No.III, 1994'. Since no action has been taken within three years from the date of the initial notice, the Government has to necessarily release the lands from acquisition in accordance with Section 38 of the Tamil Nadu Town and Country Planning Act, 1975. Accordingly, this Court



declares that the lands belonging to the petitioner measuring to an extent of 1 Acre and 25 cents situated in Survey No. 279/1 in Block No. 29, Ward No. 22, T.S. No. 6/1A, 6/2 and 6/6 and to an extent of 14 cents situated in Survey No. 283/2 in Block No. 29, Ward No. 22, T.S. No. 2/2 at Madakulam, Thirupparankundram Taluk, Madurai District shall stand released from acquisition as per the provision of Section 38 of the Tamil Nadu Town and Country Planning Act, 1975. Accordingly, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

rmk

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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VB (20.11.2020) 3P 3C