



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.(MD)No.15933 of 2020

N.Ramanathan

: 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 seeking a Writ of Declaration, to declare the reservation made in respect of the petitioner's land to an extent of 14.40 cents situated in Survey No.54 in Ward No.10, T.S.No.2477/3, at New Natham Main Road, Madurai, forming part of the Madurai Local Planning Authority, Bibikulam Detailed Development Plan No.1, 2010, 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.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents

: Mr.M.Rajarajan
Additional Government Pleader

ORDER

This Writ Petition has been filed for a Declaration to declare the reservation made in respect of the petitioner's land to an extent of 14.40 cents situated in Survey No.54 in Ward No.10, T.S.No.2477/3, at New Natham Main Road, Madurai, forming part of the Madurai Local Planning Authority, Bibikulam Detailed Development Plan No.1, 2010, 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 for M/s.Ajmal Associates, for the petitioner and Mr.M.Rajarajan, learned Additional Government Pleader appearing for the respondents.



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

"38. 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.

4. Section 38 of the Tamil Nadu Town and Country Planning Act 1971, has been considered by various Benches of this Court which includes the following:

(1)The Director, Town and Country Planning, Chennai and another vs M.Dasarathan and another, in W.A(MD)No.754 of 2019.

(2)The Director, Town and Country Planning, Chennai and another vs P.Babu, in W.A(MD)No.447 of 2020.

(3)A.Bhaskaran vs The Director of Town and Country Planning, Chennai and others, in W.P.(MD)No.13645 of 2017 (passed by me)

5. In all the aforementioned judgments, it has been consistently held that if the lands are not acquired within a period of three years from the date of publication of notice in the Government Gazette regarding preparation of regional plan or master plan or detailed development plan, etc, as the case may be, the lands shall deem to be released from the reservation.

6. In the case on hand, the publication was effected in the month of July 2010. Admittedly, the subject lands have not been acquired within a period of three years from the date of effecting publication. In view of the same, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and also as per the judgments referred to supra, the lands shall be deemed to be released from reservation.

7. Mr.M.Rajarajan, learned Additional Government Pleader appearing for the respondents 1 to 3, on instructions, would submit that the subject lands have not been acquired by the respondents within a period of three years from the date of effecting publication.

8. Since the subject lands have not been acquired within a period of three years from the date of effecting publication in the Government Gazette, the contention of the respondents will have to be necessarily rejected by this Court, as the lands are deemed to be



released for reservation as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

9. For the foregoing reasons, this Court directs the respondents to release the petitioner's land measuring to an extent of 14.40 cents situated in Survey No.54 in Ward No.10, T.S.No.2477/3, at New Natham Main Road, Madurai, forming part of the Madurai Local Planning Authority, Bibikulam Detailed Development Plan No.1, 2010 as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act 1971, within a period of one week from the date of receipt of a copy of this order.

10. Accordingly, this Writ Petition is allowed. However, there is no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

To

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

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

3.The Deputy Director of Town and Country Planning,
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+1 CC to M/s.GP (SR-23678[F] dated 02/12/2020)

Order made in
W.P.(MD)No.15933 of 2020
30.11.2020

NA(CO)

AP(09/12/2020) 3P 5C