



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.21307 of 2021

Karthick

... Petitioner

-Vs-

1 The Director of Town and Country Planning
Office of The Directorate of Town and Country
Planning Second third and Fourth Floor
E and C Market Road Koyambedu, Chennai - 600 107.

2 The Member Secretary
Tiruppur District Town and Country Planning
Office Kumaran Shopping Complex 1st floor
Corporation Building Tiruppur - 641 601.

3 The Tiruppur Municipal Corporation
Rep by its Commissioner Corporation
Office, Tiruppur.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration to declare the reservation made in respect of the petitioners land in Town Survey No. 17/9, S.F.No.732, Nallur Village, Tiruppur South Taluk, Tiruppur District forming part of Tiruppur Detailed Development Plan of 2006 to have lapsed in light of Sec. 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act 35 of 1974) and consequently direct the local body the 3rd respondent to entertain and grant approval for any development in such land.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents: Mr.U.Baranidharan,
Government Advocate
- for RR 1 and 2

Mr.P.Shanthi - for R3



O R D E R

These writ petitions have been filed for a declaration to declare the Tiruppur Detailed Development Plan of 2006 to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act').

2. The case of the petitioner is he is the owner of the subject property by virtue of a settlement deed 27.06.2019. The petitioner wanted to develop his property and he had approached the respondents and he was informed that the plan sanction will not be given since Tiruppur Detailed Development Plan of 2006 has already been notified under Section 31 of the Act. The petitioner was informed that the concerned place is reserved for a proposed scheme road under the detailed development plan. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

4. The main issue that has been urged before this Court is that the detailed development plan has lapsed under Section 38 of the Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamilnadu Gazette.

5. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion:

1. M.Amsavalli v. Director of Town and Country Planning reported in (2017) 2 CWC 418.
2. RM.Shanmuganathan v. Director of Town and Country Planning reported in (2018) 2 CWC 20;
3. W.P.(MD) No.5652 of 2019 (LKS Mohammed Meera Mohaideen v. Director of Town and Country planning ;
4. W.A(MD) No.485 of 2020 (The Director of Town and Country Planning and another v. Muthu and others) and
5. W.P.(MD) No.166 of 2021 (Nagendran v. The Director of Town and Country Planning).



6. In the present case, the detailed development plan was notified under Section 31 of the Act in the year 2006. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.

7. In the result, the property belonging to the petitioner has to be released from the Tiruppur Detailed Development Plan of 2006 scheme, since it has lapsed under Section 38 of the Act. Accordingly, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The Director of Town and Country Planning
Office of The Directorate of Town and Country
Planning Second third and Fourth Floor
E and C Market Road Koyambedu, Chennai - 600 107.
- 2 The Member Secretary
Tiruppur District Town and Country Planning
Office Kumaran Shopping Complex 1st floor
Corporation Building Tiruppur - 641 601.
- 3 The Commissioner, Tirupur Municipal Corporation
Corporation Office, Tiruppur.

+lcc to M/s.P.Shanthi, Advocate, S.R.No.54100

+lcc to the Government Pleader, S.R.No.53883

W.P.No.21307 of 2021

GSM(CO)

CB(27/10/2021)