



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 784 of 2021

1. A. Francis

2. A. Raja

... Petitioners

Vs.

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

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

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 1 and 2 to release the petitioner's land to an extent of 96 cents in Survey No. 60/2 situated at Nanjilkottai Village, Thanjavur Taluk, 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 within a stipulated time that may be fixed by this Court.

For Petitioners : Mr. R. Karunanidhi

For Respondents : Mr. C. Ramar,

Additional Government Pleader.

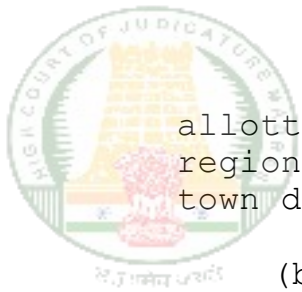
O R D E R

Heard the learned counsel on either side.

2. The petition mentioned lands were shown in the detailed development plan published in the year 2005 for the purpose of a Nursery school. But then, the acquisition were not initiated. Therefore, as rightly contended by the learned counsel appearing for the petitioner, Section 38 of THE TAMIL NADU TOWN AND COUNTRY PLANNING ACT, 1971 will come into play. The said provision reads as under:-

"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."

3. When the publication was made way back in the year 2005 itself, the acquisition proceedings should have been concluded by 2008. But even after a lapse of 15 years, the respondents have not taken any consequential action for acquiring the property in question. Therefore, applying the aforesaid statutory provision, this Court declares that the reservation of the petition mentioned land stands lapsed under Section 38 of THE TAMIL NADU TOWN AND COUNTRY PLANNING ACT, 1971.

4. This writ petition stands allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

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:

1. The Director,
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Chennai - 600 002.

2. The Member Secretary,
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Thanjavur - 613 007.

+1 CC to GP (SR-3297[F] dated 04/02/2021)

+1 CC to Mr.R.KARUNANIDHI, Advocate (SR-3396[F] dated 04/02/2021)

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KV(18.02.2021) 2P 5C

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