



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.3390 of 2021

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Congregation of the Immaculate Conception
Represented through its Superior General
Rev. Sr. Antony Pushpa Rajitham
C.I.C.Genrealate,
No.20, Old Kosavapalayam,
Madurai-625 009.

... Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development Department,
The Secretariat, Chennai.

2.The Director of Town and Country Planning,
Office of the Director of Town and Country Planning,
No.807, Anna Salai, Chennai-02.

3.The District Collector,
Madurai District, Madurai.

4.The Member Secretary,
Madurai Local Planning Authority,
3rd Floor, Corporation Office Building,
Madurai.

5.Madurai Municipal Corporation,
Through its Commissioner,
Corporation Office,
Alagar Koil Road, Tallakulam,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the petitioner's property T.S.Nos.118/18 and 118/19A in Tallakulam Village, Sambakulam, Madurai an extent of 52 cents reservation is lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act and consequently directing the respondents to issue appropriate order releasing petitioner's property, from the Madurai Pudur Extension Development Plan No.II, in light of the judgment of this Court in Commissioner Aruppukottai Municipality Vs. Kamakshi Shetty reported in 2011 (8) MLJ 437 and consequently direct the fourth and fifth respondents to make necessary entry regarding lapse of the Madurai Corporation Pudur Extension Development Plan No.II, in respect of petitioner's property.



For Petitioner : Mr.N.S.Karthikeyan
For Respondents : Mr.K.S.Selva Ganesan
Counsel for State (for R1 to R4)
Mr.R.Prabhu Ramachandran (for R5)

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ORDER

The petitioner seeks a declaration that the property bearing T.S.Nos.118/18 and 118/19A at Tallakulam Village, Sambakulam, Madurai, of an extent of 52 cents stands released from reservation under the Madurai Pudur Extension Development Plan No.II by virtue of Section 38(b) of the Tamil Nadu Town and Country Planning Act 1971.

2.The petitioner states that the above mentioned property was purchased through a registered sale deed bearing Document No.1185/1944. Since the date of purchase, the petitioner states that it is in possession and enjoyment of the relevant property. When the petitioner submitted an application for regularization in relation to the construction of a working women's hostel, the petitioner was informed that the said property was reserved under the Madurai Pudur Extension Development Plan-II for purposes of a Scheme Road. The petitioner states that the relevant development plan was approved in the year 1994, but no action was taken to acquire the property in spite of the lapse of considerable time. Consequently, the petitioner contends that the reservation is deemed to have lapsed and the land in question deemed to be released from such reservation. The present writ petition is filed for such purpose.

3.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of respondents 1 to 4 and Mr.R.Prabhu Ramachandran, learned Standing Counsel, accepts notice on behalf of the Madurai Municipal Corporation.

4.In several earlier judgments, this Court held that reserved lands shall be deemed to be released from such reservation, if such lands are not acquired within a period of three years from the date of approval of the relevant development plan. In the case at hand, it is evident that the land has not been acquired in spite of the lapse of more than two decades. Therefore, the petitioner is entitled to the declaratory relief prayed for in this writ petition.

5.Accordingly, W.P.(MD)No.3390 of 2021 is allowed by declaring that the property bearing T.S.Nos.118/18 and 118/19A in Tallakulam Village, Sambakkulam, Madurai of an extent of 52 cents is deemed to be released from reservation in terms of Section 38(b) of the Tamil Nadu Town and Country Planning Act 1971 with all



consequences thereof. There will be no order as to costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

sjj/sn

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 Secretary to Government,
Housing and Urban Development Department,
The Secretariat, Chennai.
- 2.The Director of Town and Country Planning,
Office of the Director of Town and Country Planning,
No.807, Anna Salai, Chennai-02.
- 3.The District Collector,
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Madurai Local Planning Authority,
3rd Floor, Corporation Office Building,
Madurai.
- 5.The Commissioner,
Madurai Municipal Corporation,
Corporation Office,
Alagar Koil Road, Tallakulam,
Madurai.

+1 CC to M/s.R.PRABU RAMACHANDRAN, Advocate (SR-29963[F] dated 22/09/2021)

+1 CC to M/s.N.S.KARTHIKEYAN, Advocate (SR-30038[F] dated 23/09/2021)

+1 CC to M/s.SPL. GP (SR-30197[F] dated 24/09/2021)

W. P (MD) No. 3390 of 2021

22.09.2021