



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.10357 of 2021

(Through Video Conference)

1) V.S.Muthuramalingam

2) M.Muthulakshmi

3) M.Velmurugan

4) N.Nagapriya

...Petitioners

Vs.

1) The Director,
Town and Country Planning,
No.807, Annasalai,
Chennai 600 002

2) The Member Secretary,
Madurai Local Planning Authority,
Corporation Office Building,
Anna Maligai, 3rd Floor,
Madurai 625 002

... Respondents

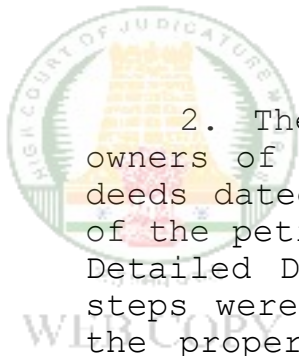
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents No.1 and 2 to release the Petitioners land with total extent of 81 cents situated in Town Survey Numbers 14/4 and 14/5 (Resurvey No. 16/2B and 16/3) Kokkalappi Ward No.23 Block-3 Madurai West Taluk, Madurai District earmarked for "Kokkalappi Detailed Development Plan No.5" by treating the "Kokkalappi Detailed Development Plan No.5" 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.M.Lingadurai,
Government Advocate

O R D E R

This Writ Petition has been filed for a direction to the respondents to release the land belonging to the petitioners from the "Kokkalappi Detailed Development Plan No.5" on the ground that it has lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act 1971.



2. The case of the petitioners is that they are the joint-owners of the subject properties, by virtue of the registered sale deeds dated 23.10.2017, 29.11.2018 and 05.10.2020. The further case of the petitioners is that the first respondent approved "Kokkalappi Detailed Development Plan No.5" in the year 2005. Thereafter, no steps were taken to acquire the land and as a result of the same, the property belonging to the petitioner is deemed to have been released from such reservation by virtue of Section 38 (b) of the Tamil Nadu Town and Country Planning Act 1971. Hence, this writ petition has been filed before this Court.

3. Heard Mr.R.Karunanidhi, learned counsel for the petitioners and Mr.M.Lingadurai, learned Government Advocate for the respondents.

4.The issue involved in the present writ petition is squarely covered by the order passed by this Court in W.P.(MD).No.8515 of 2021, dated 25.06.2021. The relevant portions of the order are extracted hereunder:

"6. 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."

5. In view of the above, it is clear that the Notification that was published on 04.03.2005 has not progressed thereafter and



hence it has lapsed, Accordingly, the property belonging to the petitioners shall be released from the "Kokkalappi Detailed Development Plan No.5" and the petitioners shall be permitted to develop their lands after getting necessary permission from the Appropriate Authority.

WEB COPY

6. With these directions, the Writ Petition stands disposed of.
No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sts

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,
Town and Country Planning,
No.807, Annasalai,
Chennai 600 002
- 2) The Member Secretary,
Madurai Local Planning Authority,
Corporation Office Building,
Anna Maligai, 3rd Floor,
Madurai 625 002

Order made in
W.P. (MD) No.10357 of 2021

Dated:
08.07.2021

MGJ(16.07.2021) 3P 3C