



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) No.10533 of 2021

(Through Video Conference)

Chandra Sekaran

...Petitioner

Vs.

1) The Director,
Directorate of Town and Country Planning,
Second, Third and Fourth Floor,
E & C market Road,
Koyambedu, Chennai 600 107

2) The Assistant Director,
District Town Planning Office,
A-2, 7th Street, Arulananda Nagar,
Thanjavur, Thanjavur 613 007

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent no. 1 and 2 to release the petitioners land with an extent of 22144 sq.ft in Survey no. 147/1A1A and 147/1A1B (Old Survey no. 147/1A) situated at Municipal Ward no. 1, Kumbakonam Town, Thanjavur District earmarked for the "Kumbakonam Detailed Development Plan-1" by treating the "Kumbakonam Detailed Development Plan-1" as lapsed under section 38 of The Tamil Nadu Town and Country Planning Act 1971.

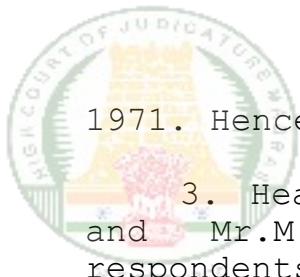
For Petitioners : Mr.R.Karunanidhi

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 petitioner from the "Kumbakonam Detailed Development Plan-1" 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 petitioner is that he is the owner of the subject property by virtue of the registered sale deed dated 07.04.2021. The further case of the petitioner is that the first respondent approved "Kumbakonam Detailed Development Plan-1" in 1972. 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 petitioner 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 16.11.1972 has not progressed thereafter and hence, it has lapsed. Accordingly, the property belonging to the petitioner shall be released from the "Kumbakonam Detailed Development Plan-1" and the petitioner shall be permitted to develop his land after getting necessary permission from the Appropriate Authority.



6. With this direction, the Writ Petition is disposed of . No costs.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

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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,
Directorate of Town and Country Planning,
Second, Third and Fourth Floor,
E & C market Road,
Koyambedu, Chennai 600 107

2) The Assistant Director,
District Town Planning Office,
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Thanjavur, Thanjavur 613 007

+1 CC to M/s.SPL GP (SR-21962[F] dated 09/07/2021)

Order made in

W.P. (MD) No.10533 of 2021

Dated:

08.07.2021

MGJ(16.07.2021) 3P 4C