



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.12172 of 2021

S.Balasubramani

... Petitioner

Vs.

1.The Director of Town and Country Planning,
807, Anna Salai,
Chennai.

2.The Member Secretary,
Madurai Local Planning Authority,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, to declare the reservation made in respect of the petitioner's land, in New Town Survey No.12/2B (Old Survey No.282/5), Madakulam Village, Madurai, in the Ponmeni Detailed Development Plan-III to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TNACT 35 of 1974) and to consequently direct the 2nd respondent to entertain and grant planning permission for the development of the petitioner's land.

For Petitioner : Mr.Mahaboob Athiff.M

For Respondents : Mr.R.Sureshkumar,
Government Advocate

ORDER

This writ petition has been filed for the issue of a Writ of Declaration, declaring the reservation made in respect of the petitioner's land, in New Town Survey No.12/2B (Old Survey No.282/5), Madakulam Village, Madurai, in the Ponmeni Detailed Development Plan-III to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2.Heard Mr.M.Mahaboob Athiff, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Government Counsel appearing for the respondents.

3.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).

7. 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."

4.In the result, the property belonging to the petitioner is deemed to have been released from the "Ponmeni Detailed Development Plan-III", since it has lapsed under Section 38 of the Act. Hence, there shall be a direction to the respondents to process the application submitted by the petitioner and grant planning permission, if the petitioner has otherwise satisfied all the other requirements.

6.This writ petition is allowed with the above directions. No costs.

Sd/-

Assistant Registrar (Records)

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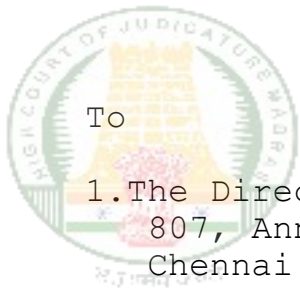
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Sub Assistant Registrar(CS)

TM

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.

<https://hcservices.gov.in/hcscservices/>



To

1.The Director of Town and Country Planning,
807, Anna Salai,
Chennai.

2.The Member Secretary,
Madurai Local Planning Authority,
Madurai.

+1 CC to M/s.GP (SR-23310[F] dated 20/07/2021)

W.P. (MD) .No.12172 of 2021

19.07.2021

RD(26.07.2021) 3P 4C