



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.14482 of 2021

J.Ragunathan

... Petitioner

Vs.

1. The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai-18.

2.The Member Secretary,
Madurai Local Planning Authority,
4, Hakkeem Ajmal Khan Road,
Chinna Chokkikulam,
Madurai-2

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to approve the residential layout plan submitted by the petitioner in respect of the property in Survey No.50/1 situated in Siruthur Village, Madurai North Taluk, Madurai District by treating the reservation of a portion of land for the purpose of detailed development plan part IV and V scheme as lapsed in view of section 38 of the Tamilnadu Town and Country planning Act 1971 (TN ACT 1974) within a time frame.

For Petitioner : Mr.P.Gunasekaran

For Respondents : Mr.R.Baskaran
Counsel for State.

ORDER

The petitioner seeks a declaration for the release of the land bearing Survey No.50/1 in Siruthur Village, Madurai North Taluk, Madurai, from the Siruthur Detailed Development Plan Part IV and V Scheme.

2. The petitioner states that it is a company engaged in the business of infrastructure development and construction of houses. It owns the aforesaid lands. Such lands were included in the Siruthur Detailed Development Plan Part IV and V Scheme, which was



published in the year 1999 and approved by the first respondent in the year 1999. The petitioner states that if lands are reserved under a detailed development plan such lands would be deemed to be released in terms of Section 38(b) of the Tamil Nadu Town and Country Planning Act 1971 (the Act of 1971) unless such lands are acquired in terms of an agreement within a period of three years from the date of publication of a notice in the Tamil Nadu Gazette under Section 26 or 27 thereof. In the case at hand, it is stated that the Detailed Development Plan Part IV and V Scheme was approved in terms of Section 29 of the Act of 1971 in the year 1999. As such, in view of the failure of the respondents to initiate necessary action to acquire the land within a period of three years, it is stated that the lands are deemed to be released in terms of Section 38.

3. The petitioner also cites earlier judgments of this Court in this regard, In particular, the judgment in ***RM Shanmuganathan Vs. The Director of Town and Country Planning 2018 (2) CWC 20*** is cited. Learned counsel points out that the said judgment pertains to the same Siruthur Village, in respect of which the present writ petition is filed. Another judgment in ***M.Amsavalli Vs. The Director of Town and Country Planning 2017 (2) CWC 418*** is also cited. Once again, it is pointed out that the said judgment relates to the Siruthur Village.

4. Mr.R.Baskaran, learned counsel for the State, accepts notice on behalf of both the respondents. He submits that the writ petitioner is entitled to the benefit of the earlier orders of this Court in as much as the Detailed Development Plan Part IV and V Scheme in the instant case was also the subject matter in the earlier orders of this Court.

5. Upon considering the aforesaid submissions and on examining Section 38 of the Tamil Nadu Town and Country Planning Act 1971, it is clear that if the land is not acquired by agreement within three years from the date of publication of notice in the Tamil Nadu Government Gazette under Section 26 or 27 thereof, such lands shall be deemed to be released.

6. In view of the aforesaid statutory prescription and taking into account the earlier judgments of this Court, reported in ***2018 (2) CWC 20*** and ***2017 (2) CWC 418***, the writ petitioner is entitled to succeed.

7. Consequently, W.P.(MD).No.14482 of 2021 is allowed by declaring that the reservation in respect of lands bearing Survey No.50/1 in Siruthur Village, Madurai North Taluk, Madurai is deemed to have lapsed in terms of Section 38 of the Tamil Nadu Town and Country Planning Act 1971. As a consequence, the second respondent is directed to consider the petitioner's application for the grant



of planning permission in accordance with law. There will be no order as to costs.

Sd/-

Assistant Registrar (CSII)

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/ /2021

Sub Assistant Registrar(CS)

tsg

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 of Town and Country Planning,
No.807, Anna Salai,
Chennai-18.

2.The Member Secretary,
Madurai Local Planning Authority,
4, Hakkeem Ajmal Khan Road,
Chinna Chokkikulam,
Madurai-2

W.P (MD) No.14882 of 2021
24.08.2021

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KB(02.09.2021) 3P 3C