



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.14964 of 2021

WEB COPY

Sri Karpaga Gomthi Housing Private Limited,
Rep. by its Managing Director,
Mr.P.M.Thiyanesh,
Door No.2/1077, Ezhlil Nagar,
Iyer Bungalow,
Madurai - 625104.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai.

2. The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

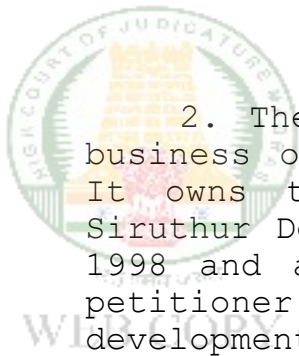
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the reservation in respect of the petitioners land in Survey Nos.141/1,2,3 and 145/1,2,3,4 in Siruthur Village, Tirupalai group, Madurai North Taluk, Madurai under the Siruthur Detailed Development Plan to have lapsed in light of Sec.38 of the Tamil Nadu Town and Country Planning Act, 1971 and to consequently direct the 2nd respondent to entertain and grant planning permission for the development of the petitioner's land.

For Petitioner : Mr.M.Mahaboob Athif
For Respondents : Mr.P.Subbaraj,
Counsel for State.

ORDER

The petitioner seeks a declaration for the release of the land bearing Survey Nos.141/1, 141/2, 141/3, 145/1, 2, 3 and 4 in Siruthur Village, Tirupalai Group, Madurai North Taluk, Madurai, from the Siruthur Detailed Development Plan.



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, which was published in the year 1998 and approved by the first respondent in the year 2000. The petitioner states that if lands are reserved under the 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 was approved in terms of Section 29 of the Act of 1971 in the year 2000. 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.

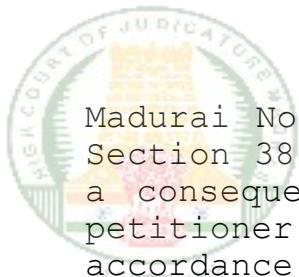
3. The petitioner also cites earlier judgments of this Court in this regard, In particular, the judgment in ***RM Shanmuganathan Vs. The Director of Town and Country Planning 2018 (2) CWC 20*** is cited. Learned counsel points out that the said judgment pertains to the same Siruthur Village, in respect 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 also relates to the Siruthur Village.

4. Mr.P.Subbaraj, 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 order of this Court in as much as the detailed development plan 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.14964 of 2021 is allowed by declaring that the reservation in respect of lands bearing Survey Nos.141/1,2,3 and 145/1,2,3,4 in Siruthur Village, Tirupalai group,



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 (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sbn

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 Principal Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai.
2. The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

+1 CC to M/s.SPL GP(SR-27196[F] dated 25/08/2021)

W.P(MD)No.14964 of 2021
24.08.2021

PS (CO)

KB(02.09.2021) 3P 4C