



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.15551 of 2021

C.Malathi

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Housing and Urban Development (UD4(1)) Department,
Fort St.George,
Chennai.

2.The Director of Town and Country Planning,
Office of the Directorate of Town and Country Planning,
Second, Third and Fourth Floor,
E & C Market Road,
Koyambedu,
Chennai - 600 107.

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

... Respondents

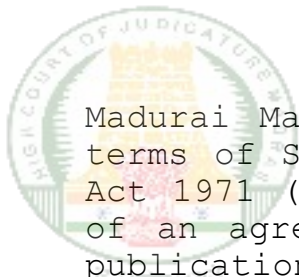
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the reservation made in respect of the petitioner's land in Survey Nos.6/5B1, 5B2A, 5B2B and 5C, Narasingam Village, Madurai forming part of the Madurai Master Plan to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN ACT 35 of 1974).

For Petitioner : Mr.M.Mahaboob Athiff
For Respondents : Mr.K.S.Selva Ganesan,
Counsel for State.

ORDER

The petitioner seeks a declaration for the release of the land bearing Survey Nos.6/5B1, 5B2A, 5B2B and 5C in Narasingam Village, Madurai under the Madurai Master Plan.

2.The petitioner states that she owns the aforesaid lands. Such lands were included in the Madurai Master Plan, which was published in the year 1995 and approved by the first respondent in the year 1995. The petitioner states that if lands are reserved under the



Madurai Master 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 Madurai Master Plan was approved in terms of Section 28 of the Act of 1971 in the year 1995. 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. Another judgment in ***M.Amsavalli Vs. The Director of Town and Country Planning 2017 (2) CWC 418*** is also cited.

4.Mr.K.S.Selva Ganesan, 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.

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.15551 of 2021 is allowed by declaring that the reservation in respect of lands bearing Survey Nos.6/5B1, 5B2A, 5B2B and 5C in Narasingam Village, Madurai under the Madurai Master Plan is deemed to have lapsed in terms of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. There will be no order as to costs.

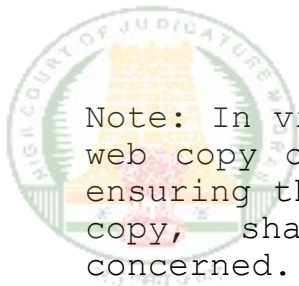
Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

WEB COPY

To

- 1.The Principal Secretary,
Government of Tamil Nadu,
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W.P (MD) No.15551 of 2021
30.09.2021

KS (CO) /RS (11.10.2021) 3P 4C