



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.15265 of 2021

V.Senthil Kumar

... Petitioner

Vs.

1.The Director of Town & Country Planning,
No.807, Anna Salai,
Chennai.

2.The Member Secretary,
Madurai Local Planning Authority,
Madurai Corporation Campus,
3rd Floor, Arignar Anna Maligai,-
Madurai - 625 002.

3.The Assistant Executive Engineer (Scheme) (Po),
Corporation of Madurai.
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the third respondent under Mathi2/010478/2021, dated 22.07.2021 and to quash the same as illegal and further direct the respondents to release the petitioner's house plot bearing Plot No.174(S) in UDR Survey No.116/3, situated at Sirudhur Village, Thiruppalai Group, Madurai North Taluk, Madurai District, from the project called "Sirudhur Development Plan VI-'BB' 40' treating the same as lapsed under Section 38 of Tamil Nadu Town and Country Planning Act, 1971.

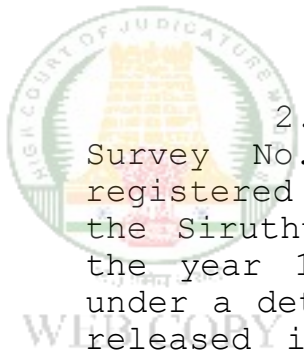
For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.R.Baskaran,
Counsel for State for R1 and R2

: Mr.Prabhu Ramachandran for R3

ORDER

The petitioner challenges an order dated 22.07.2021 and seeks the release of land.



2. The petitioner purchased a plot bearing No.174(S) in UDR Survey No.116/3, Siruthur Village, Thiruppalai Group, under a registered sale deed dated 29.06.2021. Such lands were included in the Siruthur Development Plan VI-'BB' 40', which was published in the year 1998. 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 Sections 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 1998. 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.

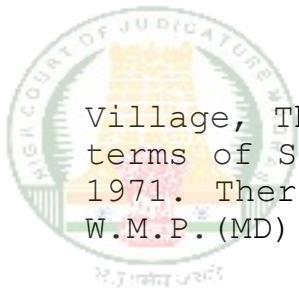
3. The petitioner also cites earlier judgments of this Court in this regard, In particular, the judgment in **RM Shanmuganathan Vs. The Director of Town and Country Planning 2018 (2) CWC 20** is cited. Learned counsel points out that the said judgment pertains to the same Siruthur Village, in respect 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.R.Baskaran, learned counsel for the State, accepts notice on behalf of respondents 1 and 2. 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. Mr.Prabhuramachandran, learned counsel, accepts notice on behalf of the third respondent.

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.15265 of 2021 is allowed by quashing the impugned order dated 22.07.2021 and directing the respondents to release the land bearing Survey No.116/3 at Sirudhur



Village, Thiruppalai Group, Madurai North Taluk, Madurai District in terms of Section 38 of the Tamil Nadu Town and Country Planning Act 1971. There will be no order as to costs. Consequently, connected W.M.P. (MD).Nos.12174 and 12175 of 2021 are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /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 & Country Planning, No.807, Anna Salai, Chennai.
- 2.The Member Secretary,
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Madurai Corporation Campus,
3rd Floor, Arignar Anna Maligai, Madurai - 625 002.
- 3.The Assistant Executive Engineer (Scheme) (Po),
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Madurai.

+1 CC to M/s.GP (SR-27634[F] dated 31/08/2021)

+1 CC to M/s.R.PRABU RAMACHANDRAN, Advocate (SR-27668[F]dated 31/08/2021)

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-27596[F] dated 27/08/2021)

**W.P (MD) No.15265 of 2021
27.08.2021**

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