



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P (MD)No.17254 of 2021

1.R.Vijayakumar
2.Baskaran
3.Shanmugavel
4.Radhakrishnan
5.Jyothi Arumugam
6.Valarmathi

... Petitioners

Vs.

1.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.

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 made in respect of the petitioners' land in Survey Nos.104/1, 2, 4, 105/1, 84/1A, 86/1A, 105/1A and 105/1B in Siruthur Village, Madurai North Taluk, Madurai under the Siruthur Detailed Development Plan to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and the order made by this Court in W.P.(MD).No.14964 of 2021 dated 24.08.2021 and to consequently direct the 2nd respondent to entertain and grant planning permission for the development of the petitioner's land.

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



ORDER

The petitioners seek a declaration for the release of the land bearing Survey Nos. 104/1, 2, 4, 105/1, 84/1A, 86/1A, 105/1A and 105/1B in Siruthur Village, Tirupalai Group, Madurai North Taluk, Madurai, from the Siruthur Detailed Development Plan.

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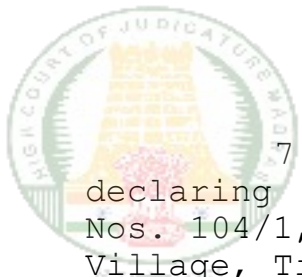
2. The petitioners state that they own the aforesaid lands. Such lands were included in the Siruthur Detailed Development Plan, which was published in the year 1998 and approved by the first respondent in the year 2000. The petitioner states that if lands are reserved under the detailed development plan, 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 petitioners also cite 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 petitioners are 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.17254 of 2021 is allowed by declaring that the reservation in respect of lands bearing Survey Nos. 104/1, 2, 4, 105/1, 84/1A, 86/1A, 105/1A and 105/1B 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 petitioners' application for the grant of planning permission in accordance with law. There will be no order as to costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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,
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2.The Member Secretary,
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Madurai.

+1 CC to M/s.SPL.GP (SR-30508[F] dated 28/09/2021)

W.P (MD) No.17254 of 2021
27.09.2021

MGJ(06.10.2021) 3P 4C