



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.16757 of 2021

N.Sathiya

... Petitioner

Vs.

1.The Director of Town and Country Planning,
2, 3 & 4th Floor, B, CMDA Office Campus,
E & C, Market Road,
Koyambedu,
Chennai - 107.

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

... Respondents

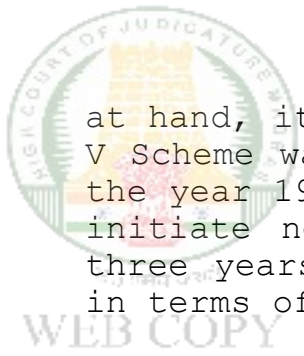
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that the reservation made in respect of the petitioner's land in Old No.189/5, Survey No. 48/5D with an extent 16 cents situates in Siruthur Village, Madurai North Taluk, Madurai under Siruthur Detailed development plan Part-IV & V is deemed to be lapsed and released from the reservation in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN ACT 1974).

For Petitioner : Mr.P.Gunasekaran
For Respondents : Mr.K.S.Selva Ganesan,
Counsel for State.

ORDER

The petitioner seeks a declaration for the release of the land bearing Old No.189/5, Survey No. 48/5D of an extent of 16 cents in Siruthur Village, Madurai North Taluk, Madurai under Siruthur Detailed Development Plan Part-IV & V.

2.The petitioner states that she 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 37 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.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 inasmuch 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.16757 of 2021 is allowed by declaring that the reservation in respect of lands bearing Old No.189/5, Survey No. 48/5D of an extent of 16 cents 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. There will be no order as to costs.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



tsg/LM

W.P(MD)No.16757 of 2021

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,
2, 3 & 4th Floor, B, CMDA Office Campus,
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Chennai - 107.

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

+1 CC to M/s.SPL.GP (SR-31029[F] dated 04/10/2021)

W.P (MD) No.16757 of 2021
30.09.2021

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