



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17456 of 2021

WEB COPY

Roshan Manawalan

... Petitioner

Vs.

1.The Director,
Director of Town and Country Planning,
E & C Market Road, Koyambedu,
Chennai-600 107.

2.The Joint Director / Member Secretary,
Tiruchirapalli Local Planning Authority,
Kaja Malai Main Road,
Kaja Malai, Tiruchirapalli-620 002.

...Respondents

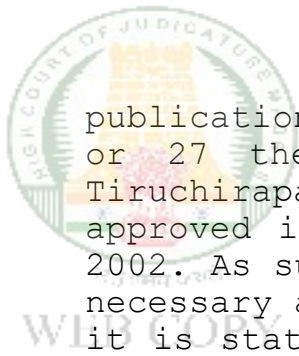
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the first and second respondents to release the petitioner's land with an extent of 2 Acres and 10 Cents situated in Town Survey Nos.2635/2 and 2636/2, Block No.53, Ward No.3, Thimmarayasamuthiram, Sri Rangam Taluk, Tiruchirapalli District earmarked for the "Tiruchirapalli Bye Pass Road Detailed Development Plan No.5" by treating the "Tiruchirapalli Bye Pass Road Detailed Development Plan No.5" as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.R.Karunanidhi
For Respondents : Mr.P.Subbaraj
Counsel for State

ORDER

The petitioner seeks a direction for the release of the land bearing Town Survey Nos.2635/2 and 2636/2, Block No.53, Ward No.3, Thimmarayasamuthiram, Sri Rangam Taluk, Tiruchirapalli District under the Tiruchirapalli Bye Pass Road Detailed Development Plan No.5.

2. The petitioner states that he owns the aforesaid lands. Such lands were included in the Tiruchirapalli Bye Pass Road Detailed Development Plan No.5. The petitioner states that if lands are reserved under the Tiruchirapalli Bye Pass Road Detailed Development Plan No.5 such lands would be deemed to be released in terms of Section 38 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 Tiruchirapalli Bye Pass Road Detailed Development Plan No.5 was approved in terms of Section 33(2) of the Act of 1971 in the year 2002. 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.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 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.17456 of 2021 is allowed by declaring that the reservation in respect of lands bearing Town Survey Nos.2635/2 and 2636/2, Block No.53, Ward No.3, Thimmarayasamuthiram, Sri Rangam Taluk, Tiruchirapalli District under the Tiruchirapalli Bye Pass Road Detailed Development Plan No.5 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.

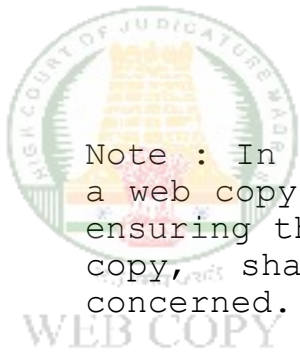
Sd/-

Assistant Registrar (AE)

// 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.

To

- 1.The Director,
Director of Town and Country Planning,
E & C Market Road, Koyambedu,
Chennai-600 107.
- 2.The Joint Director / Member Secretary,
Tiruchirapalli Local Planning Authority,
Kaja Malai Main Road,
Kaja Malai, Tiruchirapalli-620 002.

+1 CC to M/s.SPL.GP (SR-32356[F] dated 25/10/2021)

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-32395[F] dated 25/10/2021)

**W.P (MD) No.17456 of 2021
22.10.2021**

RD/JC (01.11.2021) 3P 5C