



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 30.09.2021**

**CORAM**

**THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY**

**W.P(MD)No.17410 of 2021**

S.Venkatanarayanan

... Petitioner

**Vs.**

1.The Director of Town and Country Planning,  
No.807, Anna Salai,  
Chennai-18.

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

... Respondents

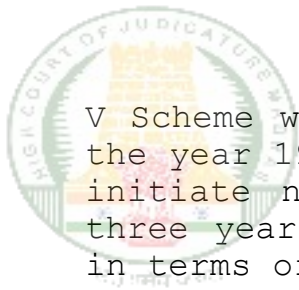
**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that the reservation made in respect of the petitioner's land in R.S.No.185/1 new Survey No.44/1 with an extent of 1 acre 6 cents and R.S.No.185/5, New Survey No.44/5 with an extent of 2 acres 76 cents situate 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.P.Subbaraj,  
Counsel for State.

**ORDER**

The petitioner seeks a declaration for the release of the land bearing R.S.No.185/1 new Survey No.44/1 with an extent of 1 acre 6 cents and R.S.No.185/5, New Survey No.44/5 with an extent of 2 acres 76 cents in Siruthur Village, Madurai North Taluk, Madurai under Siruthur Detailed Development Plan Part-IV & V.

2.The petitioner states that he 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 1997 and approved by the first respondent in the year 1997. 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 29 of the Act of 1971 in the year 1997. 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.

WEB COPY

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.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 in as much 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.17410 of 2021 is allowed by declaring that the reservation in respect of lands bearing R.S.No.185/1 new Survey No.44/1 with an extent of 1 acre 6 cents and R.S.No.185/5, New Survey No.44/5 with an extent of 2 acres 76 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.17410 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,  
No.807, Anna Salai,  
Chennai-18.

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

**W.P (MD) No.17410 of 2021  
30.09.2021**

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