



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2021

CORAM

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17868 of 2021

Shanthi

... Petitioner

Vs.

1.The Director,
Town and Country Planning,
No.807, Annasalai,
Chennai-600 002.

2.The Member Secretary,
Thanjavur Local Planning Authority,
No.5, Ganapathi Nagar 2nd Street,
Medical College Road,
Thanjavur-613 001.

... Respondents

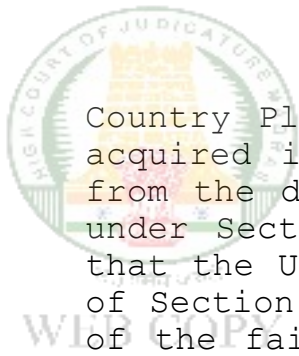
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to release the petitioner's land with an extent of 4409 Square Feet in Re-survey Number.56/3C-1 (Old Survey No.56/3C) situated at Ullur Village, Kumbakonam Taluk, Thanjavur District, earmarked for the "Ullur Detailed Development Plan No.2" by treating the "Ullur Detailed Development Plan No.2" 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 Re-survey Number.56/3C-1 (Old Survey No.56/3C) at Ullur Village, Kumbakonam Taluk, Thanjavur District, from reservation under the Ullur Detailed Development Plan No.2.

2. The petitioner states that she owns the aforesaid lands. Such lands were included in the Ullur Detailed Development Plan No.2. The petitioner states that if lands are reserved under the Ullur Detailed Development Plan No.2 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 Ullur Detailed Development Plan No.2 was approved in terms of Section 29 of the Act of 1971 in the year 2007. 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.17868 of 2021 is allowed by declaring that the reservation in respect of lands bearing Re-survey Number.56/3C-1 (Old Survey No.56/3C) at Ullur Village, Kumbakonam Taluk, Thanjavur District under the Ullur Detailed Development Plan No.2 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.

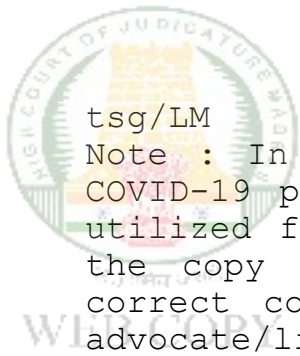
Sd/-

Assistant Registrar ()

// 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,
No.807, Anna Salai,
Chennai-18.

2.The Member Secretary,
Thanjavur Local Planning Authority,
No.5, Ganapathi Nagar 2nd Street,
Medical College Road,
Thanjavur-613 001.

+1 CC to M/s.SPL.GP (SR-31501[F] dated 07/10/2021)

W.P (MD) No.17868 of 2021
06.10.2021

VR (CO)

KB (21.10.2021) 3P 4C