



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18653 of 2021

1.D.Mohan
2.D.Singaraja

... Petitioners

Vs .

1.The Director,
Director of Town and Country Planning,
2, 3 and 4th Floor, B, CMDA Office Campus,
E & C Market Road,
Koyambedu,
Chennai-600 107.

2.The Member Secretary,
Madurai Local Planning Authority,
4, Hakkeem, Ajmalkhan 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, by declaring that the reservation made in respect of the petitioner's land to an extent of 1 Acre and **(*)79 Cents** comprised in Survey No.88/3B sub divided from the land to an extent of 2 Acres 70 Cents comprised in Survey No.88/3 situated in Vandiyur, Bit - I Village, Madurai North Taluk, Madurai District under Part - IV at Madurai Local Planning Area, Vandiyur, Bit - I Detail Development Plan No.3 bearing Map No.4 and 5. DDP (MR)/DTCP.No.43/2011 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 Petitioners : Mr.R.Shankar Ganesh
For Respondents : Mr.P.Subbaraj
Counsel for State

ORDER

The petitioners seek a declaration for the release of the land bearing Survey No.88/3B sub divided from the land to an extent of 2 Acres 70 Cents comprised in Survey No.88/3 situated in Vandiyur, Bit - I Village, Madurai North Taluk, Madurai District under the Part - IV at Madurai Local Planning Area, Vandiyur, Bit - I Detail Development Plan No.3 bearing Map No.4 and 5 DDP (MR)/DTCP.No.43/2011.



2.The petitioners state that they own the aforesaid lands. Such lands were included in the Part - IV at Madurai Local Planning Area, Vandiyur, Bit - I Detail Development Plan No.3 bearing Map No.4 and 5 DDP (MR)/DTCP.No.43/2011. The petitioners state that if lands are reserved under the Part - IV at Madurai Local Planning Area, Vandiyur, Bit - I Detail Development Plan No.3, bearing Map No.4 and 5 DDP (MR)/DTCP.No.43/2011, 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 Part - IV at Madurai Local Planning Area, Vandiyur, Bit - I Detail Development Plan No.3 bearing Map No.4 and 5 DDP (MR)/DTCP.No.43/2011 was approved in terms of Section 29 of the Act of 1971 in the year 2011. 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.

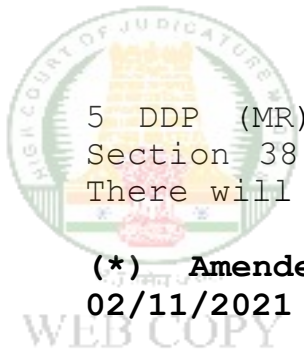
3.The petitioners also cite earlier judgments of this Court in this regard. In particular, the judgment in ***RM Shanmuganathan Vs. The Director of Town and Country Planning 2018 (2) CWC 20*** is cited. Another judgment in ***M.Amsavalli Vs. The Director of Town and Country Planning 2017 (2) CWC 418*** 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 petitioners are 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 petitioners are entitled to succeed.

7.Consequently, W.P.(MD).No.18653 of 2021 is allowed by declaring that the reservation in respect of lands bearing Survey No.88/3B sub divided (*) of an extent of 1 acre 79 cents from and out of the land of an extent of 2 acres 70 cents comprised in Survey No.88/3 situated in Vandiyur, Bit - I Village, Madurai North Taluk, Madurai District under Part - IV at Madurai Local Planning Area, Vandiyur, Bit - I Detail Development Plan No.3 bearing Map No.4 and



5 DDP (MR)/DTCP.No.43/2011 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.

(*) Amended as per order of this Hon'ble Court Order dated 02/11/2021 in W.P (MD)No.18653 of 2021

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/nsr/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,
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2, 3 and 4th Floor, B, CMDA Office Campus,
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Koyambedu,
Chennai-600 107.

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

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-33737[F] dated 08/11/2021)

+1 CC to M/s.SPL.GP (SR-33694[F] dated 08/11/2021)

**W.P (MD)No.18653 of 2021
26.10.2021**

RS/PM (10.11.2021) 3P 5C