



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18899 of 2021

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G.Sakthi Saravanan

... Petitioner

Vs.

1.The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai - 2.

2.The Member Secretary/ Director,
Local Planning Authority,
Hakkeem Ajmalkhan Road,
Chinna Chokkikulam,
Madurai.

... 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 Avaniapuram Detailed Development Plan-1, Map.Nos.4 and 5 published in the Government Gazette dated 09.11.2011 Part VI-Section 1, for the lands in S.Nos.196/1A, 196/2A, 196/1B, 196/2B, 197, 202/3A, 202/4A, 202/2, 202/1, 203/1, 203/2, 203/5, 203/6, 203/7, 203/8, 204/1 and 204/3 at Avaniapuram Village, Madurai District as lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the respondents to release the lands of the petitioner in S.Nos. 196/1A, 196/2A, 196/1B, 196/2B, 197, 202/3A, 202/4A, 202/2, 202/1, 203/1, 203/2, 203/5, 203/6, 203/7, 203/8, 204/1 and 204/3 in Avaniapuram Village, Madurai District.

For Petitioner : Mr.S.Venkatesh

For Respondents : Mr.P.Subbaraj
Counsel for State

ORDER

The petitioner seeks a declaration for the release of the land bearing S.Nos.196/1A, 196/2A, 196/1B, 196/2B, 197, 202/3A, 202/4A, 202/2, 202/1, 203/1, 203/2, 203/5, 203/6, 203/7, 203/8, 204/1 and 204/3 at Avaniapuram Village, Madurai District under the Avaniapuram Detailed Development Plan-1, Map.Nos.4 and 5 published in the Government Gazette dated 09.11.2011 Part VI-Section 1.



2. The petitioner states that he owns the aforesaid lands. Such lands were included in the Avaniapuram Detailed Development Plan-1, Map.No.4 and 5 published in the Government gazette dated 09.11.2011 Part VI-Section 1. The petitioner states that if lands are reserved under the Avaniapuram Detailed Development Plan-1, Map.No.4 and 5 published in the Government gazette dated 09.11.2011 Part VI-Section 1, 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 Avaniapuram Detailed Development Plan-1, Map.No.4 and 5 published in the Government gazette dated 09.11.2011 Part VI-Section 1 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 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.18899 of 2021 is allowed by declaring that the reservation in respect of lands bearing Survey Nos.196/1A, 196/2A, 196/1B, 196/2B, 197, 202/3A, 202/4A, 202/2, 202/1, 203/1, 203/2, 203/5, 203/6, 203/7, 203/8, 204/1 and 204/3 at Avaniapuram Village, Madurai District under the Avaniapuram Detailed



Development Plan-1, Map.No.4 and 5 published in the Government Gazette dated 09.11.2011 Part VI-Section 1 is deemed to be 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)

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// 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 of Town and Country Planning,
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Chennai - 2.

2.The Member Secretary/The Director,
Local Planning Authority,
Hakkeem Ajmalkhan Road,
Chinna Chokkikulam,
Madurai.

+1 CC to M/s.S.VENKATESH, Advocate (SR-32758[F] dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-32846[F] dated 27/10/2021)

W.P (MD) No.18899 of 2021
26.10.2021

MGJ/UV(02.11.2021) 3P 5C