



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18898 of 2021

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,
Hakeem Ajmal Khan Road,
Chinna Chokkikulam, Madurai.

... Respondents

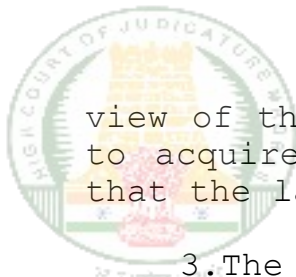
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that the Avaniapuram Detailed Development Plan-3 as approved by the first respondent in Roc.No.29194/2020 DP2 dated 21.04.2011 in MAP.Nos.4 and 5 in so far as it relates to the land of the petitioner in S.Nos.273/1A, 273/2A, 272/1B and 274/2A 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.273/1A, 273/2A, 272/1B and 274/2A at Avaniapuram Village, Madurai District.

For Petitioner : Mr.S.Venkatesh
For Respondents : Mr.K.S.Selva Ganesan
Counsel for State.

ORDER

The petitioner seeks a declaration for the release of the land bearing S.Nos.273/1A, 273/2A, 272/1B and 274/2A at Avaniapuram Village, Madurai District from reservation under the Avaniapuram Detailed Development Plan-3.

2.The petitioner states that he owns the aforesaid lands. Such lands were included in the Avaniapuram Detailed Development Plan-3. The petitioner states that if lands are reserved under the Avaniapuram Detailed Development Plan-3 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-3 was approved in terms of Section 33 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.K.S.Selva Ganesan, 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.18898 of 2021 is allowed by declaring that the reservation in respect of lands bearing S.Nos.273/1A, 273/2A, 272/1B and 274/2A in Avaniapuram Village, Madurai District under the Avaniapuram Detailed Development Plan-3 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 (P & A)

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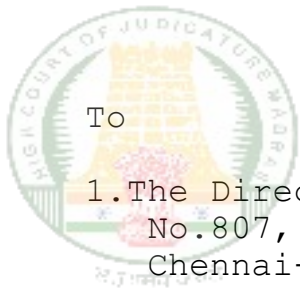
/ /2021

Sub Assistant Registrar(CS)

sjj/sn

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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

2.The Member Secretary/Director,
Local Planning Authority,
Hakeem Ajmal Khan Road,
Chinna Chokkikulam,
Madurai.

+1 CC to M/s.S.VENKATESH, Advocate (SR-32759[F] dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-32571[F] dated 26/10/2021)

W.P (MD) No.18898 of 2021
25.10.2021

NSN (CO)
RS/PM (10.11.2021) 3P 5C