



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2021

CORAM

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

WEB COPY

W.P.(MD)Nos.19672 to 19674 of 2021

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|---------------------|--|
| 1. Jesima Kalifulla | ... Petitioner in W.P(MD).No.19672 of 2021 |
| 2. S.H.Rafiq | ... Petitioner in W.P(MD).No.19673 of 2021 |
| 3. G.Suresh | ... Petitioner in W.P(MD).No.19674 of 2021 |

Vs.

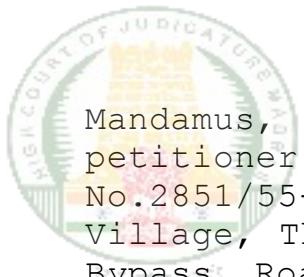
1. The Director,
Town and Country Planning,
No.807, Annasalai,
Chennai - 600 002.
2. The Member Secretary,
District Town and Country Planning Office,
Plot No.5, Second street, Ganapathi Nagar,
Medical College Road,
Thanjavur - 613 007.

... Respondents
(in all Writ Petitions)

Prayer in W.P(MD).No.19672 of 2021: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to release the petitioner's land with an extent of 2437 1/2 sq.ft in Old Survey No.2851/55-A2 and New Survey No.46/3 situated at Nanjilkottai Village, Thanjavur District earmarked for the "Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1" by treating the Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1 as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

Prayer in W.P(MD).No.19673 of 2021: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to release the petitioner's land with an extent of 2512 1/2 sq.ft in Old Survey No.2851/55 and New Survey No.46/3 situated at Nanjilkottai Village, Thanjavur District earmarked for the "Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1" by treating the Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1 as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

Prayer in W.P(MD).No.19674 of 2021: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of



Mandamus, directing the respondents 1 and 2 to release the petitioner's land with an extent of 5250 sq.ft in Old Survey No.2851/55-A2 and New Survey No.46/2 situated at Nanjilkottai Village, Thanjavur District earmarked for the "Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1" by treating the Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1 as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

In all cases

For Petitioners : Mr.R.Karunanidhi
For Respondents : Mr.K.S.Selva Ganesan,
Counsel for the State

COMMON ORDER

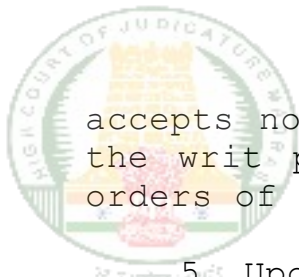
The petitioners seek a direction for the release of their respective lands in old Survey Nos.2851/55-A2 , 2851/55 and new Survey No.46/3 & 46/2 situated at Nanjilkottai Village, Thanjavur District earmarked for the "Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1" as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. The petitioners state that they have own the aforesaid lands. Such lands were included in the Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1. The petitioners state that if lands are reserved under the Trichy-Nagapattinam Bypass Road Detailed Development Plan No.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 Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1 was approved in terms of Section 29 of the Act of 1971 in the year 1998. 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 relied upon an 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,

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



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).Nos.19672 to 19674 of 2021 are allowed by declaring that the reservation in respect of lands bearing old Survey Nos.2851/55-A2 , 2851/55 and new Survey No.46/3 & 46/2 situated at Nanjilkottai Village, Thanjavur District earmarked for the "Trichy-Nagapattinam Bypass Road Detailed Development Plan No.1" 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 (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

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

2. The Member Secretary,
District Town and Country Planning Office,
Plot No.5, Second street, Ganapathi Nagar,
Medical College Road, Thanjavur - 613 007.

+1 CC to M/s.SPL.GP (SR-33679,33663[F] dated 08/11/2021)

W.P.(MD)Nos.19672 to 19674 of 2021

01.11.2021

RK/JGB(17/11/2021) 3P 4C