



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.15713 of 2017

N.R.Natarajan

... Petitioner

Vs.

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

2.The Member Secretary,
Thanjavur Local Planning Authority,
Thanjavur.

3.The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent vide his proceeding Na.Ka.No.1325/2016, dated 08.05.2017, quash the same and consequently, direct the respondents to grant building permission based on the petitioners application dated 07.12.2016 and 24.04.2017, if is in order.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.R.Suresh Kumar
Government Counsel

ORDER

The subject matter of challenge in the present writ petition is the impugned order passed by the second respondent, dated 08.05.2017 and for a consequential direction to the respondents to grant building permission based on the application submitted by the petitioner on 07.12.2016 and 24.04.2017.

2.Heard Mr.Niranjan S.Kumar, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Government Counsel appearing for the respondents



3.The second respondent has filed a counter affidavit in this case. It is seen from the counter affidavit that a scheme road named GG30 was proposed in the development plan. Steps were taken under the Tamil Nadu Town and Country Planning Act, 1971 and ultimately, the notification was published in the Tamil Nadu Government Gazette under Section 31 of the Act on 08.08.2007. Even as per the counter affidavit, the acquisition proceedings did not take place. However, the respondent was not in a position to grant approval in view of the proposed development plan.

4.The issue involved in the present writ petition is squarely covered by the order passed by this Court in W.P.(MD).No.8515 of 2021, dated 25.06.2021. The relevant portions of the order are extracted hereunder:

"6. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion:

1.M.Amsavalli v. Director of Town and Country Planning reported in (2017) 2 CWC 418.

2. RM.Shanmuganathan v. Director of Town and Country Planning reported in (2018) 2 CWC 20;

3. W.P.(MD) No.5652 of 2019 (LKS Mohammed Meera Mohaideen v. Director of Town and Country planning ;

4.W.A(MD) No.485 of 2020 (The Director of Town and Country Planning and another v. Muthu and others) and

5. W.P.(MD) No.166 of 2021 (Nagendran v. The Director of Town and Country Planning).

7. In the present case, the detailed development plan was notified under Section 31 of the Act in the year 2006. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed."

5.In the result, the impugned proceedings of the second respondent, dated 08.05.2017 is hereby quashed and the property belonging to the petitioner is deemed to have been released from the proposed development plan, since it has lapsed under Section 38 of the Act. Hence, there shall be a direction to the respondents to



building permission, if the petitioner has otherwise satisfied all the other requirements.

6.This writ petition is allowed with the above directions. No costs.

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Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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 - 600 002.
2. The Member Secretary,
Thanjavur Local Planning Authority,
Thanjavur.
3. The Commissioner,
Thanjavur Municipal Corporation,
Thanjavur.

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate (SR-21473[F] dated 07/07/2021)

+1 CC to M/s.SPL GP (SR-21518[F] dated 07/07/2021)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-21768[F] dated 08/07/2021)

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RC (15.07.2021) 3P-7C