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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.2974 OF 2022

N.Ilango

... Petitioner

-vs-

1. The Director of Town and Country Planning,
O/o. The Directorate of Town and Country Planning,
Second third and Fourth Floor, E & C Market Road,
Koyambedu, Chennai 600 107.
2. The Regional Deputy Director of Town and Country Planning,
Coimbatore Region, Dr.Nanjappa Salai,
Coimbatore 641 018.
3. The Member Secretary/Commissioner,
Pollachi Local Planning Authority,
Pollachi Municipality,
Pollachi,
Coimbatore District.
4. The Commissioner,
Pollachi Municipality,
Pollachi,
Coimbatore District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration against the respondents, declaring that the reservation made in respect of the petitioner's land in Survey No.75/2 and T.S.Nos.1925/1, 1925/2, 1925/3A, 1925/3B1, 1925/3B2 and 1925/3B3 of Pollachi Town measuring an extent of 49.12 cents, forming part of the Pollachi Market Bye-pass Road Extension Scheme, published in Government Gazette dated 25.12.2013 is lapsed and released from such reservation, in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.



For Petitioner : Mr.AE.Ravichandran
For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

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O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Declaration against the respondents, to declare that the reservation made in respect of the petitioner's land in Survey No.75/2 and T.S.Nos.1925/1, 1925/2, 1925/3A, 1925/3B1, 1925/3B2 and 1925/3B3 of Pollachi Town, measuring an extent of 49.12 cents, forming part of the Pollachi Market By-pass Road Extension Scheme, published in Government Gazette dated 25.12.2013, is lapsed and released from such reservation, in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. The case of the petitioner is that the aforesaid lands belongs to his family members, and the lands along with other properties were allotted to petitioner's father Late Mr.A.Nagappan by way of registered Partition Deed dated 21.11.1980 and subsequent to the partition, his elder brother Mr.A.N.Nagarajan, has filed a suit in O.S.No.115 of 2004 on the file of Sub Court, Pollachi, a compromise decree was passed in the suit. The petitioner and his family members are entitled to the above said lands, the Revenue Records were mutated and Patta was issued in the name of the petitioner and his family members by Tahsildar, Pollachi, by order dated 30.05.2011, and the petitioner also paid the property tax for the aforesaid lands. Further, the petitioner intended to develop the lands, in this regard, the petitioner has applied for regularization of unapproved plots and for that, the Registration Slip dated 24.02.2021 was issued.

2.1. While so, the petitioner came to know that there was a proposal for laying Pollachi Market By-Pass Road Extension, running along the said 49.12 cents of land. After publication of the Gazette Notification dated 25.12.2013, no further notification for declaration of the Scheme or for acquisition of the lands was issued within three years under Section 38 of the Town and Country Planning Act, 1971 and hence, the petitioner has made representations dated 16.10.2021 and 11.12.2021 before the 1st respondent, seeking for release of the lands from the reservation for the said By-Pass Road Extension Scheme. However, till date, no action has been taken by the respondents. Hence, the petitioner has filed the present Writ Petition.



3. Though very many grounds have been raised, learned counsel for the petitioner submits that it would suffice if this Court issues direction to the respondents to consider the petitioner's representations dated 16.10.2021 and 11.12.2021 for release of the lands under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and pass orders on the same within a particular time frame that may be fixed by this Court.

4. The learned Additional Government Pleader appearing for the respondents has no serious objection for the said order being passed.

5. In view of the aforesaid submissions, though the petitioner has sought for a Writ of Declaration, however, at the time of hearing, he has restricted his prayer, as the representations filed themselves are yet to be considered by the respondents, this Court, without expressing any opinion on the merits of the case, directs the 1st respondent to consider the petitioner's representations dated 16.10.2021 and 11.12.2021 in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

jd/nhs

To

1. The Director of Town and Country Planning,
O/o. The Directorate of Town and Country Planning,
Second third and Fourth Floor, E & C Market Road,
Koyambedu, Chennai 600 107.
2. The Regional Deputy Director of
Town and Country Planning,
Coimbatore Region, Dr.Nanjappa Salai,
Coimbatore 641 018.



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3. The Member Secretary/Commissioner,
Pollachi Local Planning Authority,
Pollachi Municipality,
Pollachi,
Coimbatore District.

4. The Commissioner,
Pollachi Municipality,
Pollachi,
Coimbatore District.

+1cc to Mr.AE.Ravichandran, Advocate, S.R.No.10876

+1cc to the Government Pleader, High Court, Madras, S.R.No.11519

W.P.No.2974 of 2022

AK-II (CO)
RLP (18/03/2022)