



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.4948, 4951 and 4406 of 2022

A.Inbaraj ... Petitioner in W.P.No.4948 of 2022

P.Rajkumar ... Petitioner in W.P.No.4951 of 2022

1. K.Sekhar

2. S.Loganayaki ... Petitioners in W.P.No.4406 of 2022

vs.

1. The Director of Town & Country Planning,
Office of Directorate of Town & County Planning,
Second, Third and Fourth Floors,
E & C Market Road, Koyambedu,
Chennai – 600 107.

2. The Member Secretary / Executive Officer,
Avinashi Local Planning Authority / Executive Officer,
Avinashi Town Panchayat,
Avinashi Taluk, Tiruppur District.

3. The Special Tahsildar
cum Land Acquisition Officer,
Tiruppur ... Respondents in W.P.Nos.4948 and 4951 of 2022

1. The Director of Town and Country Planning,
Office of Directorate of Town and Country Planning,



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Second, Third and Fourth Floors,
E & C Market Road,
Koyambedu, Chennai – 600 107.

2. The Member Secretary,
Tiruppur Local Planning Authority,
1st Floor, Kumaran Commercial Complex,
Tiruppur – 641 601.

3. The Land Acquisition Officer,
The Special Tahsildar,
Tiruppur.

...Respondents in W.P.No.4406 of 2022

Prayer in W.P.No.4948 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare that the reservation for scheme road made in the property to the extent of 0.39 acre and ¼ acre in Old TS No.38/1A2, Ward-O, Block-5, New TS No-1, Ward-G, Block-112, Tirupur South Taluk, Nallur Village, Tirupur Corporation, Tirupur (“Property”) forming part of the Approved Tirupur Detailed Development Plan No.15 which was approved by Director of Town and Country Planning on 05.09.1995 and the same has been published in the TNGG, in which a parcel of the above land was reserved for scheme road such as 'F18-F18 Road G17-G17 Road G18-G18 Road', the 1st respondent herein, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971(TN Act 35 of 1974) and the decision of this Hon'ble Court in the case of Kannabiran Vs. The Director of Town and Country Planning, in W.P.(MD)No.8515 of 2021 dated 25.06.2021.



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Prayer in W.P.No.4951 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare that the property to an extent of 0.40 acre in S.F.No.339/2, Avinashi Village, Avinashi Taluk, Tiruppur (As-As 40 feet Road) (“Property”) forming part of the Avinashi Detailed Development Plan No.1 which was consented by Director of Town and Country Planning on 11.08.2009 and the same has been published in the TNGG, the 1st respondent herein, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and the decision of this Hon'Court in the case of Kannabiran Vs. The Director of Town and Country Planning, in W.P.(MD) No.8515 of 2021 dated 25.06.2021.

Prayer in W.P.No.4406 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare that the property to an extent of 782.30 Sq.Mt. In Old TS No.63 pt, Ward-L, Block-6 corresponding New T.S.Nos.8/1, 8/2, 8/3, 8/4, Ward-A, Block-70 in Tiruppur Corporation, Tiruppur South Taluk, Tiruppur District (“Property”) forming part of Review Approved Tiruppur Detailed Development Plan No.24 for “Public Purpose” which was approved by the Director of Town and Country Planning on 09.07.2014, the 1st respondent herein, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and the decision of this Hon'ble Court in the case of Kannabiran Vs. The Director of Town and Country Planning, in W.P.(MD) No.8515 of 2021 dated 25.06.2021.



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For Petitioners
in both W.P.s : Mr.P.Puhazh Gandhi

For Respondents
in both W.P.s : Mr.P.Sathish
Additional Government Pleader for RR1 and 3

M.Rajendran
Additional Government Pleader for R2

COMMON ORDER

Since the issue involved in these Writ Petitions, is one and the same, they are disposed of by way of this common order.

2. The case of the petitioners is that they acquired the properties in respective survey numbers under registered Sale Deeds and Partition Deeds, dated 05.03.2018, 07.11.2013, 05.12.2013, 21.10.2021 respectively, situated in Tiruppur District and the same was approved by the Director of Town and Country Planning and published in the Tamil Nadu Government Gazette, in which, a portion of the above said lands of the petitioners, were reserved by the 1st respondent for Scheme road. However, the said lands were not acquired under Section 37 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act') within three years



from the date of publication of the Detailed Development Plan. Hence, the reservation made under the Detailed Development Plan in respect of petitioners' properties, is deemed to have lapsed, in the light of Section 38 of the Act. Hence, the petitioners have filed the present Writ Petitions seeking the aforesaid relief.

3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4. The learned counsel for the petitioners submitted that the issues raised in the present cases, is no longer *res integra* and the Notifications were issued in the Tamil Nadu Government Gazette in the year 1996, 2011 and 2014 respectively. He further submitted that the respondents ought to have acquired the petitioners' lands within a period of three years. However, till now, the said Scheme was not implemented. Hence, it automatically lapsed in terms of Section 38 of the Act. The learned counsel further submitted that the issue involved in these Writ Petitions was decided by this Court in W.P.(MD).No.8515 of 2021 dated 25.06.2021. Accordingly, he



prayed for allowing these Writ Petitions.

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5. The learned Special Government Pleader fairly submitted that the issue raised in the present cases is no longer *res integra* and it is covered by the decision in W.P.(MD)No.8515 of 2021, dated 25.06.2021. The relevant paragraphs Nos.5,6,7 and 8 of the said decision are extracted hereunder:

“5.It is not necessary for this Court to consider the entire scheme of the Act, since for the very same Kochadai detailed development scheme, a Division Bench of this Court in W.A.(MD)No.485/2020 has held that the scheme had lapsed by virtue of Section 38 of the Act. The relevant portions in the judgment are extracted hereunder:

“11.As rightly pointed out by the learned counsel appearing for the respondents/writ petitioners that the counter affidavit proceeds on the merits of the claim and in no way deal with deemed lapse and in the considered opinion of this Court, the learned Judge, on correct appreciation of facts and by applying the legal position as enumerated in the above said judgment, allowed the writ petition. This Court, on going through the reasons assigned in the impugned order, is of the considered view that there is no infirmity or error apparent on the face of the record for the reason assigned by the learned Single Judge for allowing the writ petition and finds that the writ appeal lacks merits.

12. It is also brought to the knowledge of this Court



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that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD).No.14456 of 2014 was also dismissed on 02.03.2020.”

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. R.M.Shanmuganathan v. Director of Town and Country Planing 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



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respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.

8. In the result, the property belonging to the petitioner has to be released from the Kochadai detailed development plan scheme, since it has lapsed under Section 38 of the Act. Accordingly, this writ petition is allowed. No costs.”

6. Following the above said decision, these Writ Petitions are allowed. Accordingly, the respondents are directed to release the petitioners' properties from the Tiruppur Detailed Development Plan scheme and Avinashi Detailed Development Plan scheme respectively, since it has lapsed under Section 38 of the Act. No costs.

30.03.2022

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Index : Yes/No

Speaking order : Yes/No



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M.DHANDAPANI, J.

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