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WP.No.29069 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 12.12.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.P.No.29069 of 2022 &**

**W.M.P.No.28352 of 2022**

1. C.Vasanthadevi
2. C.Sasi Kumar

... Petitioners

Vs

1. The Secretary,  
Housing and Urban Development Department,  
Fort St. George, Chennai – 600 015.
2. The Director,  
Tamilnadu Town and Country Plannint,  
Chennai – 600 002.
3. The Member Secretary,  
Coimbatore Local Planning Authority,  
Raju Naidu Street, Tatabad, Coimbatore – 641 012.
4. The Commissioner,  
Coimbatore Corporation, Coimbatore.

... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents to declare that the petitioner's land comprised in Old S.No.282/3, T.S.No.12/3, Ward No.44,



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Block No.28, Komarapalayam Village, Coimbatore, measuring about 78 cents is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the respondent to pass appropriate Orders for release of petitioner's land comprised in OldS.No.282/3, T.S.No.12/3, Ward No.44, Block No.28, Komarapalayam Village, Coimbatore measuring about 78 cents.

For Petitioners : Mr.Dhalapathy Vignesh Kumar

For Respondents : Mr.V.Nanmaran,  
Additional Government Pleader – R1 & R2

Mr.Velmurugan – R3 & R4

### **ORDER**

This writ petition has been filed to direct the respondents to declare that the petitioner's land comprised in Old S.No.282/3, T.S.No.12/3, Ward No.44, Block No.28, Komarapalayam Village, Coimbatore, measuring about 78 cents is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the respondent to pass appropriate Orders for release of petitioner's land comprised in OldS.No.282/3, T.S.No.12/3, Ward No.44, Block No.28, Komarapalayam Village, Coimbatore measuring about 78 cents.



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2. The case of the petitioners is that they are the owner of the subject property by virtue of the document No.7061 of 2021 on the file of the Joint Sub Registrar - II, Coimbatore. The petitioners wanted to develop his property and they had approached the respondents and they were informed that the plan sanction will not be given since detailed development plan has already been notified under Section 37 of the Act and the concerned place is reserved for a proposed scheme road under the detailed development plan. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Heard, Mr.Dhalapathy Vignesh Kumar, learned counsel appearing for the petitioners and Mr.V.Nanmaran, learned Additional Government Pleader appearing for the first and second respondents.

4. The main issue that has been urged before this Court is that the detailed development plan has lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.



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5. It is not necessary for this Court to dwell much on the entire allegation in the Writ Petition, since for the very same detailed development scheme, a Division Bench of this Court in W.A (MD) No.485 of 2020 has held that the scheme had lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning 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 that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated



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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. 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).**

Section 38 of the Tamilnadu Town and Country Planning Act reads as follows :



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38. Release of land.- If within three years from the date of the publication of the notice in the Tamil Nadu Government Gazette under section 26 or section 27- (a) no declaration as provided in sub-section (2) of section 37 is published in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice; or (b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation.

7. In the present case, the detailed development plan was notified under Section 37 of the Act in the year 2007. However, the 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 petitioners has to be released from the detailed development plan scheme, since it has lapsed under Section 38 of the Act.

9. Accordingly, this writ petition is allowed. Consequently connected miscellaneous petition is closed. No costs.



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vrc

To,

1. The Secretary,  
Housing and Urban Development Department,  
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2. The Director,  
Tamilnadu Town and Country Plannint,  
Chennai – 600 002.
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**N.SATHISH KUMAR, J.**

VTC

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