



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.31752 of 2022 &

W.M.P.Nos.31195 & 31196 of 2022

1. Ramesh Chand
2. Anoop Vijayakumar Shroff
3. Kalpesh Bafna
4. D.Dhanasekaran

... Petitioners

Vs

1. The Commissioner,
Directorate of Town & Country Planning,
Chengalvarayan Building, 4th Floor,
807, Anna Salai, Chennai – 600 002.
2. The Joint Director,
District Town and Country Planning Office,
Coimbatore District,
Dr.Nanjappa Road, Coimbatore – 641 018.
3. The Local Planning Authority – Coimbatore,
1st Floor, Raju Naidu Street,
Sivananda Colony, Coimbatore – 641 012.

... Respondents



Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Direction directing the respondents 1 to 3 to consider and approve the plans submitted by the petitioners vide their application dated 19.11.2021, bearing reference number 202100602037162-04 in respect of the development of the property situated at Veerakeralam Village, Perur Taluk, Coimbatore District, in Survey field numbers 340/1A and 340/2A1 totally admeasuring an extent of 5630 square meters, without any reference to the ring road/scheme road notified vide detailed development plan number 7 Veerakeralam village in respect of the said property in the year 1994 as the same stands reviewed by GO Ms No.22, dated 27.01.2011, issued by the Housing and Urban Development [UD 4-2] Department.

For Petitioners : Mr.O.L.V.Ganesan
for Mr.K.Jayaraman

For Respondents : Mr.V.Nanmaran,
Additional Government Pleader – R1 to R3

ORDER

This writ petition has been filed to direct respondents 1 to 3 to consider and approve the plans submitted by the petitioners vide their application dated 19.11.2021, bearing reference number 202100602037162-04 in respect of the development of the property situated at Veerakeralam Village, Perur Taluk,



Coimbatore District, in Survey field numbers 340/1A and 340/2A1 totally admeasuring an extent of 5630 square meters, without any reference to the ring road/scheme road notified vide detailed development plan number 7 Veerakeralam village in respect of the said property in the year 1994 as the same stands reviewed by GO Ms No.22, dated 27.01.2011, issued by the Housing and Urban Development [UD 4-2] Department.

2. It is the case of the petitioners that the petitioners are the owner of the property situated at Veerakeralam Village, Perur Taluk, comprised in Survey Nuber 340/2A1 measuring an extent of 33 Cents. The petitioners have drawn a a scheme of residential development by amalgamating both the properties, forming a composite extent of about 5630 square meters. The petitioners had jointly applied for approval of plans for the said scheme of development on 19.11.2021 and submitted an application for approval of plans for proposed residential development having 212 residential units in 2 units, Block A and Block B, stilt plus 5 floors.

3. The respondent has sent a communication stating that there was an approved plan for proposed 80' Ring Road as per the approved Coimbatore Master



plan. Now, it is the contention of the petitioners that the land has not been acquired within three years as per Section 38 of the Tamil Nadu Town and Country Plan. Therefore, the same has to be released. In such view of the matter, the petitioners seek a direction to the respondents to consider his application.

4. Admittedly, though the scheme road was proposed to be constructed, no steps have been taken by the respondents to acquire the land as per Section 38 of the Tamil Nadu Town Country Planning Act, which reads as follows :

“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.”

5. Having regard to the above section and as steps has not been taken to acquire the land within three years as per the above section, the respondent shall, without reference to the original proposal of the ring road, is directed to consider



the representation of the petitioners on its own merits.

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6. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed No costs.

12.12.2022

vrc

To,

1. The Commissioner,
Directorate of Town & Country Planning,
Chengalvarayan Building, 4th Floor,
807, Anna Salai, Chennai – 600 002.
2. The Joint Director,
District Town and Country Planning Office,
Coimbatore District,
Dr.Nanjappa Road, Coimbatore – 641 018.
3. The Local Planning Authority – Coimbatore,
1st Floor, Raju Naidu Street,
Sivananda Colony, Coimbatore – 641 012.



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N.SATHISH KUMAR, J.

This Writ Petition has been listed today at the instance of the learned Additional Government Pleader appearing for the first respondent under the caption 'for being mentioned'.

2. Mr.K.M.D.Muhilan, learned Additional Government Pleader would submit that instead of 'the scheme lapsed' mentioned at the end of the 7th para, it is has to be mentioned as 'the reservation is released from the detailed plan'. It is his further submission that if the Government intends to acquire the land for any purpose, this order will not be a bar for the Government in view of the provision of Land Acquisition Act.

3. In view of the above submissions, instead of 7th para in the Order dated 12.12.2022, the following paragraphs shall be incorporated in the Order.

7. In the present case, the detailed development plan was notified under Section 37 of the Act in the year 1992. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the reservation is released from the detailed plan.

7a. It is made clear that mere releasing of the lands, as per Section 38 will not bar the authorities to pass orders strictly in terms of



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the Rules. The lapse under Section 38 will not affect the Rule 4[5] of Tamil Nadu Regularization of Unapproved Layouts and Plot Rules, 2017.”

7b. However, it is admitted case that the land has not been acquired within a period of three years. In such view of the matter, as per Section 38 of the Tamilnadu Town and Country Planning Act, the petitioner's land shall be released from the development plan. It is also made clear that in future, if the Government intends to acquire the land for any purpose, this order will not be a bar for the Government in view of the provision of Land Acquisition Act. Similarly, any application is filed or pending for regularization of unapproved layout, such application shall be dealt as per Tamilnadu Town and Country Planning Act, 1971, on its own merits, strictly in terms of the Rules.

4. The registry is directed to above paragraphs in the above Order and issue fresh Order copy to the parties concerned.

24.02.2023

vrc



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N. SATHISH KUMAR, J.

VRC

W.P.No.31752 of 2022

24.02.2023