



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2022

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P (MD) .No.2517 of 2022

D.S.Senthil

.. Petitioner

Vs.

1.The Director of Town and Country Planning,
Directorate of Town and Country Planning,
No.807, Anna Salai, Chennai - 2.

2.The Commissioner,
Madurai Corporation,
Madurai,
Madurai District.

3.The Deputy Director of Town and Country Planning,
No.4, Hakkim Ajmalkhan Road,
Chenna Chokkikulam,
Madurai - 625 002.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of declaration, to declare the reservation made in respect of the petitioner's land to an extent of 34 cents situated in Survey No.234/4 at Madakulam Village, Thirupparankundam Taluk, Madurai District, forming part of the Madurai Local Planning Area, Madakulam Detailed Development Plan No.IV 1994 (Map No.2) had lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act 35 of 1974) within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.T.Amjad Khan for R1 and R3
Government Advocate

Mr.P.Athimoola Pandian for R2
Standing Counsel



ORDER

This writ petition has been filed for issuance of Writ of declaration, to declare the reservation made in respect of the petitioner's land to an extent of 34 cents situated in Survey No.234/4 at Madakulam Village, Thirupparankundam Taluk, Madurai District, forming part of the Madurai Local Planning Area, Madakulam Detailed Development Plan No.IV 1994 (Map No.2) has lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act 35 of 1974) within the period that may be stipulated by this Court.

2.Heard Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioner, Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 and 3 and Mr.P.Athimoola Pandiyan, learned Standing Counsel appearing for second respondent.

3.This writ petition has been filed on the ground that ever since 1994 in the Madakulam Detailed Development Plan No.IV 1994, no steps have been taken for land acquisition and therefore, in accordance with Section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act 35 of 1974) , the property belonging to the petitioner, which was falling under the aforementioned development plan has to be released.

4.Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 reads as follows:-

*"Section 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 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.The learned Government Advocate appearing for the respondents has also placed before this Court a letter dated 08.02.2022, addressed to him stating that the contentions of the petitioner in this writ petition are true as within three years period, no acquisition proceedings has been initiated with regard to the subject property belonging to the petitioner. Since the acquisition proceedings has not been initiated within the three years period, Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 gets attracted and the property belonging to the petitioner, which is the subject matter of this writ petition has to be necessarily released from acquisition.



6. Accordingly, this writ petition is allowed as prayed for. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

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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,
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Madurai District.

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+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-5774[F] dated 11/02/2022)

+1 CC to M/s.SPL.GP (SR-5694[F] dated 11/02/2022)

W.P(MD) .No.2517 of 2022

10.02.2022

MGJ(18.02.2022) 3P 6C