



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.2838 of 2022

WEB COPY

Dr.N.Saleem

... Petitioner

Vs.

1.The Director of Town and Country Planning,
607, Anna Salai,
Chennai.

2.The Assistant Director / Member Secretary,
District Local Planning Authority,
Collectorate Campus,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring the petitioner's land in S.No.G.3/10/4 (old S.No.3209) of Vadasery Village, Agasteeswaram Taluk, Kanyakumari District is deemed to be released as per Section 38 of the Town and Country Planning Act, 1971 from the proposed scheme road under the Detailed Development Plan No.III of Nagercoil Local Planning area issued vide ROC.No.10132/2000/DPI dated 20.08.2003.

For Petitioner : Mr.S.Anwar Sameem
For Respondents : Mr.T.Amjad Khan
Government Advocate

O R D E R

This Writ Petition has been filed for a declaration as per the provisions of Section 38 of the Town and Country Planning Act, 1971 [hereinafter referred to as 'the Act'] that the land in S.No. G.3/10/4 (old S.No.3209) of Vadasery Village, Agasteeswaram Taluk, Kanyakumari District which is owned by the petitioner is deemed to be released as no place has been taken for Detailed Development Plan by the respondents subsequent to the impugned Notification dated 20.08.2003.

2.It is the case of the petitioner that he is the absolute owner of the aforementioned property. According to him, though a notification was issued on 20.08.2003, by the respondents for the Detailed Development Plan No.III of Nagercoil Local Planning area, no further steps were taken subsequent to the said notification.



Therefore, according to the petitioner, as per Section 38 of the Act, it is deemed to be released and the Detailed Development Plan is deemed to be lapsed.

3. Heard Mr.S.Anwar Sameem, learned Counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate who accepts notice on behalf of the respondents.

4. The law is now well settled by various decisions of this Court and Section 38 of the Act also makes it clear that subsequent to the notification, if within three years no further steps have been taken for land acquisition, the lands are deemed to be released from land acquisition and the Detailed Development Plan is deemed to be lapsed.

5. Learned Government Advocate appearing for the respondents on instructions also would submit that subsequent to the notification dated 20.08.2003 referred to supra, no steps have been taken for acquiring the land of the petitioner for the Detailed Development Plan No.III of Nagercoil Local Planning Area. The said statement is recorded.

6. Therefore, necessarily in accordance with Section 38 of the Act, the relief sought for by the writ petitioner in this writ petition has to be granted. Accordingly, it is declared that the petitioner's land in S.No.G.3/10/4 (old S.No.3209) of Vadasery Village, Agasteeswaram Taluk, Kanyakumari District is deemed to be released as per Section 38 of the Act from the proposed scheme road under the Detailed Development Plan No.III of Nagercoil Local Planning area issued vide ROC.No.10132/2000/DPI dated 20.08.2003.

7. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

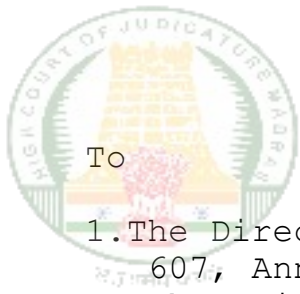
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/ /2022

Sub Assistant Registrar(CS)

MR

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,
607, Anna Salai,
Chennai.

2.The Assistant Director / Member Secretary,
District Local Planning Authority,
Collectorate Campus,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-10566[F] dated 08/03/2022)

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-10641[F] dated
08/03/2022)

ORDER MADE IN
W.P.[MD]No.2838 of 2022
07.03.2022

_SS/22.03.2022 : 3P/5C