



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.4581 of 2022

Meenakshi Ammal

... Petitioner

/Vs./

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

2.The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration to declare the reservation in respect of the petitioner's land in Survey 174/4 and 174/5, Madakulam Village, Tirupurankundaram Taluk, Madurai under the Madakulam Detailed Development Plan to have lapsed in light of Sec.38 of the Tamil Nadu Town and Country Planning Act 1971.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.M.Lingadurai

Special Government Pleader

ORDER

This writ petition has been filed for issuance of Writ of Declaration to declare the reservation in respect of the petitioner's land in Survey Nos.174/4 and 174/5, Madakulam Village, Tirupurankundaram Taluk, Madurai under the Madakulam Detailed Development Plan to have lapsed in light of Sec.38 of the Tamil Nadu Town and Country Planning Act 1971.

2.Heard Mr.M.Mahaboob Athiff, learned Senior Counsel appearing for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents.

3.This writ petition has been filed on the ground that ever since 1994 in the Madakulam Detailed Development Plan, 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 Special Government Pleader 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 (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

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

2.The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

+1 CC to M/s.SPL GP (SR-13174[F] dated 21/03/2022)

order made in
W.P.[MD]No.4581 of 2022
18.03.2022

PKP/28.03.2022/3P/4C