



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.5700 of 2022

S.Mathina

... 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, praying this Court to issue a Writ of Declaration, to declare the reservation in respect of the petitioner's land in Survey No.396/1, Town Survey No.10/1, an extent of 0.7075.0 square meter Ward-B, Block-21, Melur Taluk, Madurai District under the Melur Detailed Development Plan to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner	:	Mr.M.Mahaboob Athiff
For Respondents	:	Mr.B.Saravanan, Additional 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 No.396/1, Town Survey No.10/1, an extent of 0.7075.0 Square meter, Ward-B, Block-21, Melur Taluk, Madurai District under the Melur Detailed Development Plan to have lapsed in light of Section 38 of the Tamil Nadu Town and Country



Planning Act, 1971 within a time frame to be fixed by this Court.

2. Heard Mr.M.Mahaboob Athiff, learned counsel for the petitioner and Mr.B.Saravanan, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

3. This Writ Petition has been filed on the ground that ever since 1994 in the Melur 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. Mr.B.Saravanan, learned Additional Government Pleader appearing for the respondents would fairly submit that since no steps have been taken pursuant to the notification issued in the year 1994, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the relief sought for in this Writ Petition can be granted to the petitioner.

6. 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.

7. For the foregoing reasons, the relief sought for in this Writ Petition has to be granted and accordingly, this Writ Petition is allowed as prayed for and the property belonging to the petitioner in Survey No.396/1, Town Survey No.10/1, an extent of 0.7075.0 square meter, Ward-B, Block-21, Melur Taluk, Madurai District earmarked for the "Melur Detailed Development Plan" is released from reservation, as "Melur Detailed Development Plan" is



lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Lm

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,
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.AJMAL ASSOCIATES, Advocate (SR-15566[F] dated 31/03/2022)

+1 CC to M/s.SPL GP (SR-15718[F] dated 31/03/2022)

W.P. (MD) .No.5700 of 2022
30.03.2022

NSN (CO)
PA(07.04.2022) 3P 5C