



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.7903 of 2021

and

W.M.P. (MD) .No.6034 of 2021

B.Meenakshi Sundaram

... Petitioner

Vs.

1.The Director of Town and
Country Planning,
807, Anna Salai,
Chennai - 2.

2.The Deputy Director of Town and Country Planning,
4, Hakkim Amalkhan Road,
Chinna Chokkikulam,
Madurai - 625 002.

3.The Member Secretary (incharge),
Madurai Local Planning Authority,
Madurai District.

4.The Commissioner,
Madurai Corporation,
Madurai.

...Respondents

(R-4 is suo motu impleaded vide Court order dated 16.04.2021 in W.P. (MD) .No.7903 of 2021)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent No.1 to declare the reservation made in respect of the petitioner's land in Survey Nos.146/4A, 145/6 in Ponmeni Village, Madurai South Taluk, Madurai District under Ponmeni Detailed Development Plan III to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act of 1974) within the time period stipulated by this Court.

For Petitioner	:	Mr.Mahaboob Fazil for Mr.T.Lajapathi Roy
For R-1 to R-3	:	Mr.B.Saravanan, Additional Government Pleader.
For R-4	:	Mr.R.Murali, Standing Counsel.



ORDER

This Writ Petition has been filed for a Mandamus seeking for a direction to the first respondent to declare the reservation made in respect of the petitioner's land in Survey Nos.146/4A, 145/6 in Ponmeni Village, Madurai South Taluk, Madurai District under Ponmeni Detailed Development Plan No.III to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act of 1974) within a time frame to be fixed by this Court.

2. Heard Mr.Mahaboob Fazil, learned counsel for the petitioner, Mr.B.Saravanan, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 3 and Mr.R.Murali, learned Standing Counsel, who accepts notice for the fourth respondent.

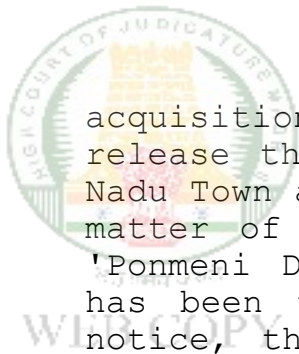
3. It is the case of the petitioner that he is the absolute owner of the aforementioned lands. According to the petitioner, initial land acquisition notice was issued by the land acquisition authorities in the year 1991 for the aforesaid lands. However, no action has been taken within a period of three years, thereafter and hence, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the Government has to release the aforesaid lands from acquisition. In such circumstances, this Writ Petition has been filed.

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

"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. A learned single Judge of this Court in **W.P (MD) .No.5221 of 2009** reported in **2010 (2) CTC 510** in the case of **V.Nagamani and another Vs., The Director of Town and Country Planning, Chennai and others** involving the similar issue and the same Ponmeni Detailed Development Plan No.III, 1994 at Ponmeni Village, Madurai South Taluk, Madurai District has held that, since no action has been



acquisition notice issued in the year 1991, the Government has to release the land from acquisition as per Section 38 of the Tamil Nadu Town and Country Planning Act. The lands, which are the subject matter of the petition, also fall within the same Scheme, namely 'Ponmeni Detailed Development Plan No.III, 1994'. Since no action has been taken within three years from the date of the initial notice, the Government has to necessarily release the lands from acquisition in accordance with Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

6. 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 Nos.146/4A, 145/6 in Ponmeni Village, Madurai South Taluk, Madurai District earmarked for the "Ponmeni Detailed Development Plan No.III" is released from reservation as "Ponmeni Detailed Development Plan No.III" is lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (AE)

// 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

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+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-13999[F] dated
24/03/2022)

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23.03.2022

KS (CO)
KB (04.04.2022) 4P 6C