



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.6869 of 2022

R.Balamurugan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai.

2.The Assistant Director,
District Town and Country Planning,
Theni,
Theni District.

3.The Commissioner,
Cumbum Municipality,
Theni District.

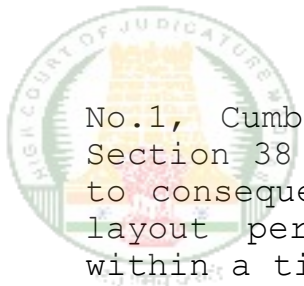
...Respondents

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 T.S.No.8/4 in Ward B, Block 1, Uthamapuram, Cumbum Taluk, Theni District under the Detailed Development Plan No.1, Cumbum Local Planning Area to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and to consequently direct the second respondent to entertain and grant layout permission for the development of the petitioner's land.

For Petitioner	:	Mr.G.R.Sathish for M/s.D.Rajeswari
For R-1 and R-2	:	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 T.S.No.8/4 in Ward B, Block 1, Uthamapuram, Cumbum Taluk, Theni District under the Detailed Development Plan



No.1, Cumbum Local Planning Area to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and to consequently direct the second respondent to entertain and grant layout permission for the development of the petitioner's land within a time frame to be fixed by this Court.

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2. Heard Mr.G.R.Sathish, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2.

3. This Writ Petition has been filed on the ground that ever since 1994 in the Cumbum Detailed Development Plan No.1, 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, 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.M.Lingadurai, learned Special Government Pleader appearing for the respondents 1 and 2 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 T.S.No.8/4 in Ward B, Block 1, Uthamapuram, Cumbum Taluk, Theni District earmarked for the "Cumbum Detailed Development Plan No.1" is released from reservation, as "Cumbum Detailed



Development Plan No.1" is lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

8. In respect of the consequential prayer, i.e. to direct the second respondent to entertain and grant layout permission for the development of the petitioner's land within a time frame to be fixed by this Court, the same was not pressed by the learned counsel for the petitioner in this Writ Petition. If at all the petitioner is seeking for layout approval, he has to apply for the same separately before the statutory authority. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

To

1.The Principal Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai.

2.The Assistant Director,
District Town and Country Planning,
Theni,
Theni District.

+1 CC to M/s.D.RAJESWARI, Advocate (SR-20834[F] dated 25/04/2022)

+1 CC to M/s.SPL.GP (SR-20909[F] dated 25/04/2022)

W.P. (MD) .No.6869 of 2022
22.04.2022

MGJ(16.05.2022) 3P 5C