



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.6947 of 2022

L.Ramasamy

.. Petitioner

Vs

1.The Director of Town and Country Planning,
Directorate of Town and Country Planning,
No.807, Anna Salai, Chennai - 2.

2.The Commissioner,
Thanjavur City Municipal Corporation,
Thanjavur District.

3.The Member Secretary,
District Town and Country Planning Office,
Plot No.5, Second Street, Ganapathi Nagar,
Medical College Road,
Thanjavur District.

.. Respondents

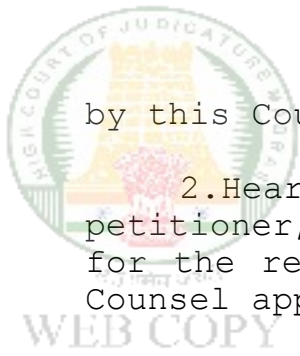
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, to declare the reservation made in respect of the petitioners land to an extent of 3 acre 92 cents situated in Survey No.204/6B2B1A1 at Villar Village, Thanjavur Taluk, Thanjavur District, forming part of the Villar Detailed Development Plan No.9, 2011 (Map No.4 and 5 DDP (TR)/DTCP No. 26/2011) had lapsed in light of section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act. 35 of 1974) within the period that may be stipulated by this Court.

For Petitioner : Mr.K.Dinesh

For Respondents : Mrs.S.Jeya Priya for R1 & R3
Government Advocate
Mr.N.Dilip Kumar for R2
Standing Counsel

ORDER

This writ petition has been filed for issuance of Writ of declaration, to declare the reservation made in respect of the petitioner's land to an extent of 3 acre 92 cents situated in Survey No.204/6B2B1A1 at Villar Village, Thanjavur Taluk, Thanjavur District, forming part of the Villar Detailed Development Plan No.9, 2011 (Map No.4 and 5 DDP (TR)/DTCP No. 26/2011) had lapsed in light of section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN Act. 35 of 1974) within the period that may be stipulated



by this Court.

2.Heard Mr.K.Dinesh, learned Counsel appearing for the petitioner, Mrs.S.Jeya Priya, learned Government Advocate appearing for the respondents 1 and 3 and Mr.N.Dilip Kumar, learned Standing Counsel appearing for second respondent.

3.This writ petition has been filed on the ground that ever since 2011 in the Villar Detailed Development Plan No.9, 2011, 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 Government Advocate appearing for the respondents 1 and 3 on instructions submits 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.

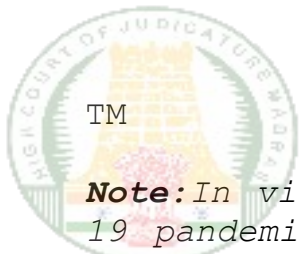
Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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.

2.The Member Secretary,
District Town and Country Planning Office,
Plot No.5, Second Street, Ganapathi Nagar,
Medical College Road,
Thanjavur District.

+1 CC to M/s.K. DINESH, Advocate (SR-18628[F] dated 13/04/2022)

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-19145[F] dated 18/04/2022)

+1 CC to M/s.SPL.GP. (SR-18981[F] dated 18/04/2022)

W.P. (MD)No.6947 of 2022
13.04.2022

sg(CO)
TR(28.04.2022) 3P 6C