



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.04.2022**

CORAM:

**THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.7116 of 2022

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1.S.Ganeshprabu  
2.S.Rameshkumar

... Petitioners

**/Vs./**

1. The Director Town and Country Planning,  
2,3 and 4<sup>th</sup> Floor, B, CMDA Office Campus,  
E&C Market Road,  
Koyambedu,  
Chennai-107.

2. The Member Secretary,  
Madurai Local Planning Authority,  
4, Hakkeem, Ajmalkhan Road,  
Chinna Chokkikulam,  
Madurai-2.

3. The Commissioner,  
Madurai Corporation,  
Madurai.

... Respondents

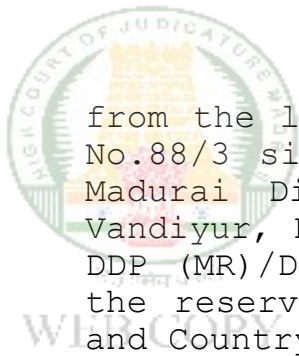
**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration declaring that the reservation made in respect of the petitioners' land to an extent of 1 Acre 79 Cents comprised in Survey No. 88/3B sub divided from the land to an extent of 2 Acres 70 Cents comprised in Survey No.88/3 situated in Vandiyur, Bit I Village, Madurai North Taluk, Madurai District under Part-IV at Madurai Local Planning Area, Vandiyur, Bit-I Detail Development Plan No.3 bearing Map No.4 and 5. DDP (MR)/DTCP. No.43/2011 is deemed to be lapsed and released from the reservation in the light of Section 38 of The Tamil Nadu Town and Country Planning Act, 1971 (TN ACT 1974).

For Petitioners  
For Respondents

: Mr.R.Shankar Ganesh  
: Mr.D.Sasikumar (For R1 & R2)  
Additional Government Pleader  
Mr.K.K.Kannan (For R3)  
Standing Counsel

**ORDER**

This writ petition has been filed for a Declaration to declare that the reservation made in respect of the petitioners' land to an extent of 1 Acre 79 Cents comprised in Survey No. 88/3B sub divided



from the land to an extent of 2 Acres 70 Cents comprised in Survey No.88/3 situated in Vandiyur, Bit I Village, Madurai North Taluk, Madurai District under Part-IV at Madurai Local Planning Area, Vandiyur, Bit-I Detail Development Plan No.3 bearing Map No.4 and 5. DDP (MR)/DTCP. No.43/2011 is deemed to be lapsed and released from the reservation in the light of Section 38 of The Tamil Nadu Town and Country Planning Act, 1971 (TN ACT 1974).

**2.**It is the case of the petitioners that they are the absolute owners of the aforementioned property. According to them, though notification was issued by the respondents for the subject Plan, no further steps were taken subsequent to the said notification. Therefore, according to the petitioners, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the land is deemed to be released and the Detailed Development Plan is deemed to be lapsed.

**3.**Heard Mr.R.Shankar Ganesh, learned Counsel for the writ petitioners, Mr.D.Sasikumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 and 2 and Mr.K.K.Kannan, learned Standing Counsel, who accepts notice on behalf of the third respondent.

**4.**The law is now well settled by various decisions of this Court and Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 also makes it clear that subsequent to the notification, if within three years no further steps have been taken for land acquisition, the lands are deemed to be released from land acquisition and the Detailed Development Plan is deemed to be lapsed.

**5.**The learned Additional Government Pleader appearing for the first and second respondents, on instructions, also would submit that subsequent to the notification, no steps have been taken for acquiring the lands of the petitioners for the subject plan. The said statement is recorded.

**6.**Therefore, necessarily in accordance with Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the relief sought for by the writ petitioners in this writ petition has to be granted. Accordingly, it is declared that the petitioners' land to an extent of 1 Acre 79 Cents comprised in Survey No. 88/3B sub divided from the land to an extent of 2 Acres 70 Cents comprised in Survey No.88/3 situated in Vandiyur, Bit I Village, Madurai North Taluk, Madurai District under Part-IV at Madurai Local Planning Area, Vandiyur, Bit-I Detail Development Plan No.3 bearing Map No.4 and 5. DDP (MR)/DTCP. No.43/2011 is deemed to be released as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, from the proposed scheme road under Part-IV at Madurai Local Planning Area, Vandiyur, Bit-I Detail Development Plan No.3 bearing Map No.4 and 5. DDP (MR)/DTCP. No.43/2011.



7. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

**To**

1. The Director Town and Country Planning,  
2,3 and 4<sup>th</sup> Floor, B, CMDA Office Campus,  
E&C Market Road,  
Koyambedu,  
Chennai-107.

2. The Member Secretary,  
Madurai Local Planning Authority,  
4, Hakkeem, Ajmalkhan Road,  
Chinna Chokkikulam,  
Madurai-2.

+1 CC to M/s.SPL.GP ( SR-19371[F] dated 19/04/2022 )

+1 CC to M/s.K.K.KANNAN, Advocate ( SR-19480[F] dated 19/04/2022 )

+1 CC to M/s.R.SHANKAR GANESH, Advocate ( SR-19884[F] dated 20/04/2022 )

**ORDER MADE IN**  
**W.P. [MD]No.7116 of 2022**  
**Dated: 18.04.2022**  
**(2/2)**

SA(16.05.2022) 3P 6C