



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.(MD)No.7607 of 2022

WEB COPY

Ponnamani

... Petitioner

vs.

1.The Director,
Town and Country Planning,
2nd, 3rd and 4th floor, C& E Market Road,
Koyambedu, Chennai - 600 107.

2.The Assistant Director / The Member Secretary,
Thanjavur Local Planning Authority,
No.5,2nd Street, Ganapathi Nagar,
Medical College Road,
Thanjavur - 613 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the Respondents No.1 and 2 to release the petitioner's land with an extent of 55164 Sq.feet in Old Survey No.3297 and New Survey No.33 situated at Arulanandammal Nagar, Ward No.29, Thanjavur Town, Thanjavur District earmarked for the Trichy - Nagapattinam Bye-Pass Road Detailed Development Plan No.2 (Map No.4) by treating the plan as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and consequently, to direct the Respondent No.2 to grant approval for converting the Petitioner's land property as residential plots in the light of the first respondent Office Circular vide Proceedings in Roc.No.4367/2019-TCP2, dated 14.08.2021 within a stipulated time that may be fixed by this Court.

For Petitioner :Mr.R.Karunanidhi

For Respondents :Mr.T.Ajmal Khan

Government Advocate

O R D E R

This Writ Petition has been filed for a Mandamus seeking for a direction to the Respondents No.1 and 2 to release the petitioner's land with an extent of 55164 Sq.feet in Old Survey No.3297 and New Survey No.33 situated at Arulanandammal Nagar, Ward No.29, Thanjavur Town, Thanjavur District earmarked for the Trichy - Nagapattinam Bye-Pass Road Detailed Development Plan No.2 (Map No.4) by treating the plan as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and consequently, to direct the Respondent No.2 to grant approval for converting the Petitioner's land property as residential plots in the light of the first respondent Office Circular vide Proceedings in Roc.No.4367/2019-TCP2, dated 14.08.2021 within a time frame to be fixed by this Court.



2.It is the case of the petitioner that she is the absolute owner of the aforementioned property. According to her, though notification was issued in March, 1998, by the respondents for the Trichy - Nagapattinam Bye-Pass Road Detailed Development Plan No.2 (Map No.4), no further steps were taken subsequent to the said notification. Therefore, according to the petitioner, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, it is deemed to be released and the Detailed Development Plan is deemed to be lapsed.

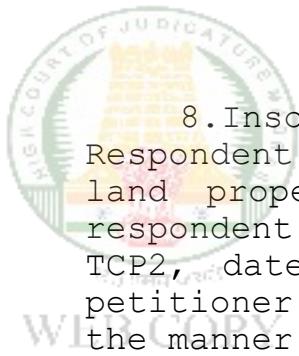
3.Heard Mr.R.Karunanidhi, learned Counsel for the petitioner, Mr.T.Amjad Khan, learned Government Advocate, who accepts notice on behalf of the respondents.

4.The learned Counsel for the petitioner restricts his relief only to the first limb of the prayer, namely, seeking for a declaration that the acquisition of the petitioner's land has been lapsed as per the provisions of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. Insofar as the second limb of prayer is concerned, he seeks liberty to redress the same by filing a separate proceeding in the manner known to the petitioner under law.

5.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.

6.The learned Government Advocate appearing for the respondents, on instructions, would also submit that subsequent to the notification issued in March, 1998 referred to supra, no steps have been taken for acquiring the lands of the petitioner for the Trichy - Nagapattinam Bye-Pass Road Detailed Development Plan No.2 (Map No.4). The said statement is recorded.

7.Therefore, necessarily in accordance with Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the first limb of relief sought for by the petitioner in this Writ Petition has to be granted. Accordingly, it is declared that the petitioner's lands in Old Survey No.3297 and New Survey No.33 situated at Arulanandammal Nagar, Ward No.29, Thanjavur Town, Thanjavur District are deemed to be released as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, from the **(*)Primary School** under the Trichy - Nagapattinam Bye-Pass Road Detailed Development Plan No.2 (Map No.4) issued in March, 1998.



8.Insofar as the second limb of prayer, namely, to direct the Respondent No.2 to grant approval for converting the Petitioner's land property as residential plots in the light of the first respondent Office Circular vide Proceedings in Roc.No.4367/2019-TCP2, dated 14.08.2021, is concerned, liberty is granted to the petitioner to redress the same by filing a separate proceeding in the manner known to law.

9.Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD II)

(*)Amended as per order of this Court dated 21/06/2022 made in W.P. (MD)No.7607 of 2022

Sd/-

Assistant Registrar (P&A)

// True Copy //

22/06/2022

Sub Assistant Registrar(CS)

cmr

To

(*)To be Substituted to the order which already despatched on 09.05.2022

1.The Director,

Town and Country Planning,
2nd, 3rd and 4th floor, C& E Market Road,
Koyambedu, Chennai - 600 107.

2.The Assistant Director / The Member Secretary,

Thnjavur Local Planning Authority,
No.5,2nd Street, Ganapathi Nagar,
Medical College Road, Thanjavur - 613 007.

+1 CC to M/s.R.Karunanidhi,Advocate(SR-27012)

W.P. (MD)No.7607 of 2022

21.04.2022

SB(CO)

GC(02.05.2022) 3P 4C

MGJ(22.06.2022) 3P 4C