



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.04.2022**

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.8599 of 2022

and

W.M.P.[MD]No.6334 of 2022

WEB COPY

1.M.Radhakrishnan
2.S.Vairamani
3.S.Iyyanar

... Petitioners

/Vs./

1. The Director Town and Country Planning,
No.807, Anna Salai,
Chennai.

2. The Deputy Director of Town and Country Planning,
Madurai Local Planning Authority,
no.4, Hakkim Ajmalkhan Road,
Chinna Chokkikulam,
Madurai.

3. The Commissioner,
Madurai Corporation,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to declare that the reservation of East-West 40 Feet Scheme Road in Madakulam Detailed Developed Plan No.6 in DDP(MR)/DTP No.12/97 (ROC.No./36560/97-DP2) shown in the petitioners' land in Ward 22, Block 40, T.S.No.142/1 and T.S.No.142/2 at Madakulam Part 2 village, Thirupparankundram Taluk, Madurai District forming part of the Madurai Local Planning Area, has lapsed and deemed to be released in light of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 in Madakulam Detailed Developed Plan No.6, 1994.

For Petitioners : Mr.H.Arumugam

For Respondents : Mr.B.Saravanan (For R1 & R2)
Special Government Pleader
Mr.S.Vinayak (For R3)
Standing Counsel



ORDER

This writ petition has been filed for a Mandamus, to declare that the reservation of East-West 40 Feet Scheme Road in Madakulam Detailed Developed Plan No.6 in DDP(MR)/DTP No.12/97 (ROC.No./36560/97-DP2) shown in the petitioners' land in Ward 22, Block 40, T.S.No.142/1 and T.S.No.142/2 at Madakulam Part 2 village, Thirupparankundram Taluk, Madurai District, forming part of the Madurai Local Planning Area, has lapsed and deemed to be released in light of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 in Madakulam Detailed Developed Plan No.6, 1997.

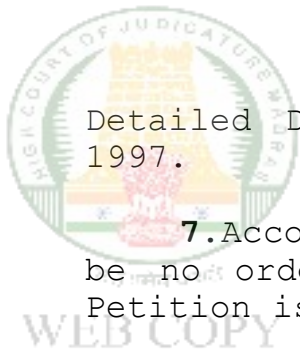
2.It is the case of the petitioners that they are the absolute owners of the aforementioned property. According to them, though notification was issued in 1997, by the respondents for Madakulam Detailed Developed Plan No.6, no further steps were taken subsequent to the said notification. Therefore, according to the petitioners, as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, it is deemed to be released and the Detailed Development Plan is deemed to be lapsed.

3.Heard Mr.H.Arumugam, learned Counsel for the writ petitioners, Mr.B.Saravanan, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2 and Mr.S.Vinayak, 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 Special Government Pleader appearing for the first and second respondents, on instructions, also would submit that subsequent to the notification issued in 1997 referred to supra, no steps have been taken for acquiring the lands of the petitioners for Madakulam Detailed Developed Plan No.6. 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' lands in Ward 22, Block 40, T.S.No.142/1 and T.S.No.142/2 at Madakulam Part 2 village, Thirupparankundram Taluk, Madurai District, are deemed to be released as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, from the proposed scheme road under Madakulam



Detailed Developed Plan No.6 issued vide ROC.No.2901/2001/DP2 in 1997.

7. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Director Town and Country Planning,
No.807, Anna Salai,
Chennai.
2. The Deputy Director of Town and Country Planning,
Madurai Local Planning Authority,
no.4, Hakkim Ajmalkhan Road,
Chinna Chokkikulam,
Madurai.
3. The Commissioner,
Madurai Corporation,
Madurai.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-22920[F] dated 29/04/2022)

+1 CC to M/s.SPL.GP (SR-23211[F] dated 02/05/2022)

W.P. [MD]No.8599 of 2022

28.04.2022

MGJ(17.05.2022) 3P 6C