



W.P.(MD)No.18885 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

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Malliga

... Petitioner

Vs.

1.The District Collector,
Thenkasi District,
Collectorate,
Thenkasi,
Thenkasi District.

2.The Commissioner,
Thenkasi Municipality,
Thenkasi,
Thenkasi District.

3.The Joint Director,
Directorate of Town Planning,
Thenkasi,
Thenkasi District – 627 818.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing to dispose petitioner's representation dated 25.08.2021 within the stipulated time fixed by this Hon'ble Court.



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For Petitioner : Mr.S.Kadarkarai

For Respondents 1 & 3 : Mr.J.Ashok,
Additional Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing to dispose petitioner's representation dated 25.08.2021, within a stipulated time.

2. Heard Mr.S.Kadarkarai, learned counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 and 3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner claims to have purchased a strip of a land measuring 81 cents in T.S.No.70, Block No.1, Ward – A, Tenkasi by a registered sale deed dated 10.11.2021. It is her case that the master plan prepared for Tenkasi was approved by G.O.Ms.No.169, Housing and Urban Development Department



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dated 13.07.2006. It is her further case that as per master plan a 24 meter East – West road was proposed and that the said road is near the property purchased by the petitioner. The further case of the petitioner is that the persons, who have purchased properties on the southern side of the road do not have any access to their property. Stating that the road is under the occupation of several people and that the entire road has been blocked, the petitioner has made several representations and particularly on 25.08.2021 to remove the encroachment on the said road. Stating that no action has been initiated by the official respondents, the above writ petition is filed.

4. Learned counsel for the petitioner submitted that several private persons are in possession of the property and the respondents have not taken any steps for removal of encroachment.

5. From the communication of the third respondent addressed to the petitioner dated 05.03.2021, it is seen that a master plan prepared for the area came into force from 13.07.2006. The communication received from the Municipal Corporation dated 30.06.2020, does not indicate that the land which is classified as



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scheme road or public purpose has been acquired.

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6. It may be open to the Town and Country Planning authorities to prepare a master or detailed development plan showing the reservation of private lands either for public purpose or scheme roads. The reservation will be operating only if the land which is required or reserved or designated in the master plan or detailed development plan is acquired. If no acquisition takes place within five years, the lands reserved or designated for public purpose as per the master plan or detailed development plan shall be deemed to be released as per Section 38 of the Town and Country Planning Act, 1971.

7. In this case, it is admitted by the learned Additional Government Pleader that no acquisition has taken place. There is no record produced before this Court to show that the scheme or reservation or designation of land for public purpose is the property of local body or Government land. In such circumstances, petitioner's claim for removal of encroachment in the places, which are earmarked or designated for the purpose of formation of road or other public purpose cannot be entertained. So



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long as the property is not the property of local body or Government, there is no question of interference with the possession of pattatars or paramount title holders.

8. The Writ Petition is devoid of merits and hence, the same is dismissed. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
22.08.2022

Index : Yes / No

sj

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