



W.P.(MD).Nos.18584 and 18585 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).Nos.18584 and 18585 of 2022

and

W.M.P.(MD).Nos.13512, 13513, 13514 and 13515 of 2022

W.P.(MD).Nos.18584 of 2022

K.Soundararajan

... Petitioner

Vs

- 1.The Director,
Town and Country Planning,
No.807, Anna Salai,
Chennai – 600 002.
- 2.The District Collector,
Thanjavur District,
Thanjavur.
- 3.The Joint/Assistant Director,
District Town and Country Planning,
No.5, Ganapathi Street, 2nd Street,
Medical College Road,
Thanjavur District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the record of the first respondent proceedings Roc. No.523/2017 TCP 12 dated 07.05.2022 insofar as “The Proposed part of G2G2 30'0” wide Scheme Road in the applicant site to be handed over to the Local Body” portion of the impugned order for the petitioner and his wife S.Suguna's Lands in (Resurveyed) S.No. 102/2A2, 102/2A3, 102/3 and 103/2D (part) in Ullur Village, Kumbakonam Taluk under Ullur Detailed Development Plan No.3 of Kumbakonam is concerned and quash the same while consequently directing the first respondent to delete the petitioner and his wife S.Suguna's Lands in (Resurveyed) S.No. 102/2A2, 102/2A3, 102/3 and 103/2D (part) in Ullur Village, Kumbakonam Taluk under Ullur Detailed Development Plan No.3 of Kumbakonam by considering the second respondent District Collector Resolution No.23 dated 27.09.2019 in accordance with law.

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S.Suguna

... Petitioner

Vs

1.The Director,
Town and Country Planning,
No.807, Anna Salai,
Chennai – 600 002.

2.The District Collector,
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Thanjavur.



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... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the record of the first respondent proceedings Roc. No.523/2017 TCP 12 dated 07.05.2022 in so far as “The Proposed part of G2G2 30'0” wide Scheme Road in the applicant site to be handed over to the Local Body” portion of the impugned order for the petitioner and her husband Mr.K.Soundararajan Lands in (Resurveyed) S.No.102/2A2, 102/2A3, 102/3 and 103/2D (part) in Ullur Village, Kumbakonam Taluk under Ullur Detailed Development Plan No.3 of Kumbakonam is concerned and quash the same while consequently directing the first respondent to delete the petitioner and her husband Mr.K.Soundararajan Lands in (Resurveyed) S.No.102/2A2, 102/2A3, 102/3 and 103/2D (part) in Ullur Village, Kumbakonam Taluk under Ullur Detailed Development Plan No.3 of Kumbakonam by considering the second respondent District Collector Resolution No.23 dated 27.09.2019.



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(In both Writ Petitions)

For Petitioners : Mr.T.R.Rajagopalan,
Senior Counsel,

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
Assisted by,
Mr.M.Sarangan,
Additional Government Pleader.

COMMON ORDER

Heard the learned Senior counsel appearing for the writ petitioners and the learned Additional Advocate General assisted by learned Additional Government Pleader appearing for the respondents.

2. The writ petitioners are husband and wife. They had purchased the petition mentioned lands in the year 2004, 2006 and 2011 under three separate sale deeds. The lands were included in the Detailed Development Plan issued under Section 26 of the Tamil Nadu Town and Country Planning Act, 1971 as a scheme road. However, consequential steps were not taken within the next three years. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 is as follows:



“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 section 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”.

3. Therefore, the petition mentioned lands stood released from such reservations long back. However, for reasons best known, the petitioners have been requesting the authorities seeking such release. In view of the deeming provision in Section 38 of the Act, the result was automatic. Be that as it may, the petitioners wanted conversion of the petition mentioned lands to commercial category. When an application was made by the petitioners herein, it was recommended by the third respondent as early as on 06.02.2020. The first respondent also accepted the proposal submitted by the third respondent and permitted the conversion sought for by the writ petitioners.



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4. However, while doing so, the first respondent had stipulated that the portion earmarked as a scheme road in the Detailed Development Plan should be handed over to the local body. This stipulation is challenged in this Writ Petition.

5. The learned Additional Advocate General pointed out that the request for conversion and the stipulation for handing over always went hand in hand and that is why even while granting the petitioner's request, the aforesaid condition for handing over the scheme road portion was also incorporated.

6. Incorporation of the said condition in the impugned order in my view is not rational. Any road in the very nature of things is a link. It helps to reach from one point to another. It cannot be a standalone feature in the petitioners land alone. The original Detailed Development Plan envisaged formation of a scheme road passing through the petitioners patta land. In view of the failure to take consequential steps, the scheme road as a whole lapsed. If the impugned condition is not set aside, the road would exist as an isolated stretch on the petitioners patta land alone. It will not serve the needs of the general public. It



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is for this reason, I set aside the impugned stipulation directing the writ petitioners to hand over the proposed part of G2G2 30'0 wide street road to the local body.

7. Accordingly, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
Nsr
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G.R.SWAMINATHAN, J.

Nsr

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