

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.22903 of 2021

Veena

... Petitioner

Vs

1.The Director of Town and Country Planning,
807, Anna Salai,
Chennai.

2.The Member Secretary,
Nagercoil Local Planning Authority,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a *WRIT OF DECLARATION*, to declare the reservation made in respect of the petitioner's land in Survey No.G4/9-1, NEeendakari A East Village, Agastheeswaram Taluk, Kanyakumari District forming part of the Nagercoil Detailed Development Plan Part V to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 (TN ACT 35 of 1974) and the order made by this Honble Court in Kannabiran vs. The Director of Town and Country Planning, W.P.(MD) No.8515 of 2021 dated 25.06.2021.

For Petitioner : Mr.Mahaboob Athiff

For Respondents : Mr.M.Sarangan,
Additional Government Pleader.

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The petition mentioned land was included in Nagercoil Detailed Development Plan Part V published in the year 2001, it was earmarked as scheme road. However, consequential steps for acquiring the property were not taken. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 reads 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. Even though the detailed Development Plan that is the subject matter of this writ petition was issued under the earlier Act, the statutory mandate set out under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 is equally applicable. Once consequential steps for acquiring land covered under the detailed Development Plan have not been taken within the stipulated period, the reservation will automatically lapse. It is declared that the reservation made in respect of the petition mentioned land has lapsed. The respondents are directed to make necessary changes in the relevant records.

4. This writ petition is allowed. No costs.

02.09.2022

Index : Yes / No
Internet : Yes/ No
Nsr

G.R.SWAMINATHAN, J.

Nsr

To

- 1.The Director of Town and Country Planning,
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Chennai.
- 2.The Member Secretary,
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