



W.P.(MD).No.25228 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.25228 of 2022

- 1.M.Subbulakshmi
- 2.S.Meenakshi
- 3.B.Kalyani
- 4.M.Jeyamuthu
- 5.M.Thirumal
- 6.M.Nagalakshmi
- 7.M.Saraswathi
- 8.M.Subramani

... Petitioners

vs.

- 1.The District Collector,
Madurai,
Madurai District.
- 2.The Director,
Town and Country Planning,
Chennai.
- 3.The Member Secretary,
Madurai Local Planning Authority,
Madurai.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to release the land in S.Nos.110/5, 110/6A, 110/7A and 110/12 situated at Kochadai Village, measuring to an extent of 34 cents, earmarked as 80 Feet Road in the Kochadai Detailed Development Plan 2 and 3, by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, by considering the representation sent by the petitioners dated 11.10.2022.

For Petitioners : Mr.Niranjan S.Kumar
For R1 & R2 : Mr.A.Kannan
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to release the land in S.Nos.110/5, 110/6A, 110/7A and 110/12 situated at Kochadai Village, measuring an extent of 34 cents, earmarked as 80 Feet Road in the Kochadai Detailed Development Plan 2 and 3, by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, by considering the representation sent by the petitioners dated 11.10.2022.



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2. The case of the petitioners is that the properties in S.Nos.110/5, 110/6A, 110/7A and 110/12 situated at Kochadai Village, Madurai originally belong to the petitioners' predecessor. While so, a proposal was established in the name of 'Detailed Development Plan' for Kochadai Village. The Government has notified the same through Gazette notification as Kochadai Detailed Development Plan Nos.1, 2 and 3. On such notification, the Government had notified/reserved the lands in S.Nos.110/5, 110/6A, 110/7A and 110/12 measuring an extent of 34 cents situated at Kochadai Village, Madurai out of 106 cents. Once the Detailed Government Plan comes into operation, the Government has to acquire the land under Section 36 of the Tamil Nadu Town and Country Planning Act and appropriate compensation has to be provided under Section 39 of the Tamil Nadu Town and Country Planning Act, within the period of three years. Even after lapse of ten years, till today no acquisition has been made. Therefore, the present case falls under Section 38 of the Tamil Nadu Town and Country Planning Act. Hence, the lands in S.Nos.110/5, 110/6A, 110/7A and 110/12 measuring an



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extent of 34 cents are deemed to be released. Hence, they made a detailed representation to the respondents on 11.10.2022. But the same was not considered so far.

3. The learned counsel appearing for the petitioner has relied on a decision of this Court in W.P.(MD).No.10659 of 2012, dated 10.12.2012.

The relevant portion of the order reads as follows:

“8. In this regard, useful reference could made to a decision reported in (2008) 2 MLJ 184 (K.S.Kamakshi Chetty and others vs. Commissioner, Aruppukottai Municipality, Aruppukottai and another), wherein it has been held as follows:

“9. On the facts and circumstances of the present case, the petitioners have clearly stated in the affidavit, that even under the old Act VII of 1920, no steps were taken for the purpose of completing the acquisition within three years and the same has not been denied in the counter affidavit filed by the first respondent. Even assuming that the said Scheme has been taken over under the Act 35 of 1972, even from the date of coming into effect of the Act within the period stipulated under [Section 38](#), no steps have been taken by the respondents for acquiring the property for the purpose of "open space" stated to have been



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reserved under the North-East Extension Town Planning Scheme Part II, Aruppukottai sanctioned under G.O.Ms. No. 474 LA dated 02.03.1969.”

9. Therefore, the acquisition cannot be made at this stage, sine the period of three years as contemplated under the said provision is already over. Accordingly, this Writ Petition is allowed. No costs.

4. Following the same, this Court is of the view that the acquisition cannot be made at this stage, sine the period of three years as contemplated under the said provision is already over. Accordingly, this Writ Petition is allowed and the respondents are directed to release the land in S.Nos.110/5, 110/6A, 110/7A and 110/12 situated at Kochadai, Madurai District, measuring an extent of 34 cents, by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs.

10.11.2022

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To

- 1.The District Collector,
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- 2.The Director,
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Chennai.
- 3.The Member Secretary,
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Madurai.



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V.BHAVANI SUBBAROYAN,J.

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