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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.7061 of 2023

Mr.M.Chandrasekaran

Petitioner

vs.

1.The Director of Town and Country Planning,
Office of the Directorate of Town and Country Planning,
2nd, 3rd, 4th Floors, E & C Market, Road,
Koyambedu,
Chennai 600 017.

2.The Member Secretary,
Erode Local Planning Authority,
Erode District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare the reservation made in respect of the petitioner's land comprised in Survey No.443, 444/2, 447/1, 448/1, 464/1 and 469/1 at Erode Village, Erode Taluk, Erode District, forms the part of the Approved Kasipalayam Detailed Development Plan No.1 of Map 4 and 5 DDP (SR)/DTCP No.08/2009 vide Proceedings in ROC. No. 22592 / 2008 DP1 in the year of 2009 to have lapsed in light of Section 38 of the Tamil Nad Town and Country Planning Act, 1971 and the decision of this court in the case of



of 2021, dated 25.06.2021.

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For Petitioners : Ms.S.Mahalakshmi

For Respondents : Mr.A.M.Ayyathurai
Government Advocate

ORDER

This writ petition has been filed for a direction to declare the reservation made in respect of petitioner's land comprised in Survey No.443, 444/2, 447/1, 448/1, 464/1 and 469/1 at Erode Village, Erode Taluk, Erode District, forms the part of the Approved Kasipalayam Detailed Development Plan No.1 of Map 4 and 5 DDP (SR)/DTCP No.08/2009 vide Proceedings in ROC. No. 22592 / 2008 DP1 in the year of 2009 have lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter called as 'the Act').

2. Heard Ms.S.Mahalakshmi, learned counsel for petitioner and Mr.A.M.Ayyathurai, learned Government Advocate for respondents.

3. The case of the petitioners is that Kasipalayam Detailed Development Plan No.1 scheme was announced and it was approved by the first respondent in the year 2009. According to the petitioner, no steps were taken to acquire the lands and it continued to be in possession and enjoyment of the petitioner. Hence,



according to the petitioners, the development plan itself has lapsed in view of Section 38 of the Act. Accordingly, the petitioner has sought for a declaration to declare that the development plan No.1 has lapsed.

4. The main issue that has been urged before this Court is that the detailed development plan has lapsed under Section 38 of the Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.

5. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. In the present case, the respondents had failed to take any steps to acquire the subject land therefore, by operation of Section 38 of the Act, the scheme has lapsed.

6. In view of the above discussion, the subject property belonging to the petitioners stands released from the detailed development plan.



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N. ANAND VENKATESH, J.

SSR

In the result, this writ petition stands allowed. No costs.

18.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
SSR

To

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