



W.P.No.4125 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.4125 of 2023

1.K.V.Jayaraman
2. N.Gnanasoundari

.. Petitioners

Versus

1.The Secretary
Housing and Urban Development Department
Fort St.George, Chennai – 600 015

2.The Director
Tamil Nadu Town and Country Planning
Chennai – 600 002

3.The Member Secretary
Coimbatore Local Planning Authority
Raju Naidu Street, Tatabad, Coimbatore – 641 012

.. Respondents

Prayer: Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to declare that the petitioner's land comprised in S.F.No. 24/3, 24/4, 25/1B, 25/2A, 25/2C, 26/1, 26/2A, 26/2B, 26/2D, 27/1A, 27/1B1, 27/1B2, 27/1C, 27/1D, Veerakeralam Village Perur Taluk Coimbatore measuring about 9 acres and 61 3/4 cents is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act 1971 and consequently direct the respondent to pass appropriate orders for release of the petitioner's land comprised in S.F.No. 24/3, 24/4, 25/1B, 25/2A, 25/2C, 26/1, 26/2A, 26/2B, 26/2D, 27/1A, 27/1B1, 27/1B2, 27/1C, 27/1D, Veerakeralam Village Perur Taluk Coimbatore measuring about 9 acres and 61 3/4 cents.



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invoking the provision of the Land Acquisition Act, 1894. Whereas, Section 38 of the said Act contemplates, if such acquisition is not made within a period of three years from the date of publication of the detailed development plan, the land will be deemed to have been released from such reservation from the detailed development plan. Hence, according to him, no such acquisition has been made within a period of three years, hence, the writ petition.

3. Heard, Mr.Dhalapathy Vignesh Kumar, learned counsel appearing for the petitioners and Mrs.R.Anitha, learned Special Government Pleader appearing for the respondents.

4. The main issue that has been urged before this Court is that the detailed development plan in G.O.Ms.No.661 dated 12.10.1994, has lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, since the land has not been acquired within a period of three years from the date of publication of the notification in Government Order, G.O.Ms.No.661 dated 12.10.1994.

5. It is not necessary for this Court to dwell much on the entire allegation in



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the Writ Petition, since for the very same detailed development scheme, a Division

Bench of this Court in W.A (MD) No.485 of 2020 has held that the scheme had

lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act.

The relevant portions in the judgment are extracted hereunder :-

“11. As rightly pointed out by the learned counsel appearing for the respondents/writ petitioners that the counter affidavit proceeds on the merits of the claim and in no way deal with deemed lapse and in the considered opinion of this Court, the learned Judge, on correct appreciation of facts and by applying the legal position as enumerated in the above said judgment, allowed the writ petition. This Court, on going through the reasons assigned in the impugned order, is of the considered view that there is no infirmity or error apparent on the face of the record for the reason assigned by the learned Single Judge for allowing the writ petition and finds that the writ appeal lacks merits.

12. It is also brought to the knowledge of this Court that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD) No.14456 of 2014 was also dismissed on 02.03.2020.”

6. 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



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plan in the Government Order, the concerned lands shall be deemed to be released from such reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion :

- 1. M.Amsavalli v. Director of Town and Country Planning reported in (2017) 2 CWC 418.**
- 2. RM.Shanmuganathan v. Director of Town and Country Planning reported in (2018) 2 CWC 20.**
- 3. W.P.(MD) No.5652 of 2019 (LKS Mohammed Meera Mohaideen v. Director of Town and Country Planning)**
- 4. W.A.(MD) No.485 of 2020 (The Director of Town and Country Planning and another v. Muthu and others) and**
- 5. W.P.(MD) No.166 of 2021 (Nagendran v. The Director of Town and Country Planning).**

Section 38 of the Tamilnadu Town and Country Planning Act 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



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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.

7. In the present case, the detailed development plan was notified under Section 37 of the Act in the year 2007. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.

8. In the result, the property belonging to the petitioners has to be released from the detailed development plan scheme, since it has lapsed under Section 38 of the Act.

9. Accordingly, this writ petition is allowed. No costs.

14.02.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes/No
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N. SATHISH KUMAR, J.



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