



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.11221 of 2023

Sri T R Narayanasamy Naidu & sons Charities
Ganapathypalayam
Rep. by its Managing Trustee
Thiru Vignesh R Ranganathan
No.48, Ansari Street,
Udumalpet – 642 126.

Petitioner

vs.

1.The Director of Town & Country Planning,
Office of the Directorate of Town & Country Planning,
Second, Third and Fourth Floors,
E & C Market Road,
Koyambedu, Chennai – 600 107.

2.The Member Secretary
Udumalaipettai Local Plannning Authority,
Udumalaipettai Municipality,
Udumalaipettai.

3.The Land Acquisition Officer,
Tiruppur.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare that the property to the extent of 5.93 acres in (old SF. No. 97 / A) New ward- G, Block -1, TS



No. 44 ('property') was reserved for acquisition by the 1st Respondent vide MAP No.3 and 4- AP- proved TPDTP No. 109 / 70 dated 17.06.1971 for G1G1 Road and EE 40 Road, the 1st Respondent, varied by 'Draft variation to the sanctioned Town Planning Scheme No.4' of Udumelpet Local Planning Area (ROC No. 5800 / 2003 / DP2) vide Tamilnadu Government Gazette dated Feb 4, 2004 morefully stated as Review Consolidated variation of Udumalpet Detailed Development Plan No.4, to have lapsed in the light of Section 38 of the Tamil nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and the decision of this Court in the case of Kannabiran vs. The Director of Town and Country Planning, in W.P.(MD)No.8515 of 2021 dated 25.06.2021.

For Petitioner : Mr.P.Pugazh Gandhi

For Respondents : Mr.C.Selvaraj
Additional Government Pleader
R1, R3
Mr.B.Ananad
Standing Counsel for R2

ORDER

This writ petition has been filed for a declaration to declare that the Udumalpet Detailed Development Plan No.4 as lapsed insofar as the property belonging to the petitioner in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as "the Act")



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2. Heard Mr.P.Pugazh Gandhi, learned counsel appearing on behalf of the petitioner, Mr.C.Selvaraj, learned Additional Government Pleader appearing on behalf of the respondents 1 and 3 and Mr.B.Ananad, learned Standing Counsel appearing on behalf of the 2nd respondent.

3. It is seen from records that the petitioner has purchased the subject property through a registered Sale Deed dated 12.06.1972. The Gazette notification was published on 04.02.2004 and the sanctioned Town Planning Scheme No.4 of Udumalpet local planning area was made operative. However, the lands have not been acquired within a period of three years from the date of the development plan as required under Section 37 of the Act. Hence, the petitioner has approached this Court seeking for a declaration that the Development Plan itself has lapsed.

4. The issue that is involved in the present case is squarely covered by various orders passed by this Court in this regard. One such order was passed by this Court in W.P.(MD)No.8515 of 2021, dated 25.06.2021. In the said order, all the previous orders were taken into account and this



Court held that where the acquisition of the land has not taken place within the period of limitation under Section 37 of the Act, the Scheme itself will stand lapsed by virtue of Section 38 of the Act. The same will squarely apply to the facts of the present case also. The notification was issued under Section 31 of the Act on 04.02.2004 and till date no steps have been taken to acquire the land. Hence, by operation of Section 38 of the Act, it must be declared that the Detailed Development Plan No.4 has lapsed insofar as the property belonging to the petitioner is concerned.

5.In the result, this writ petition is allowed. No Costs.

12.04.2023

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



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N. ANAND VENKATESH, J.

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