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Writ Petition No.9691 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.9691 of 2023

1.L.S.Saravana Kumar
S/o.L.R.Subbarayan

2.L.S.Rajesh Kumar
S/o.L.R.Subbarayan

3.Padmapriya
W/o.Ramachandran

...Petitioners

Vs

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

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

3. The Member Secretary,
Erode Town and Country Planning Authority Office,
Chennimalai Road,
Opposite to Govt ITT
Erode – 638 009.

...Respondents



Writ Petition No.9691 of 2023

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 properties in R.S.Nos.78/1, 78/2 & 78/3 in Punjailakkapuram Village, Modakkurichi Taluk, Erode District forming part of Punjailakkapuram Detailed Development Plan No.7 to have lapsed in view of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 by appreciating the above stated facts.

For Petitioners : Mr.M.Guruprasad
For Respondents : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed for a direction to declare the reservation made in respect of property in R.S.Nos.78/1, 78/2 & 78/3 in Punjailakkapuram Village, Modakkurichi Taluk, Erode District forming part of Detailed Development Plan No.7 has lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter called as 'the Act').

2. Heard Mr.M.Guruprasad, learned counsel for petitioners and Mr.S.Arumugam, learned Government Advocate for respondents.



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3. The case of the petitioners is that B2-B2 and B3-B3 40 feet road scheme was announced and it was approved by the third respondent through proceedings in ROC No.77/2005/ELPA dated 16.04.2008. According to the petitioners, no steps were taken to acquire the lands and it continued to be in possession and enjoyment of the petitioners. Hence, according to the petitioners, the development plan itself has lapsed in view of Section 38 of the Act. Accordingly, the petitioners have sought for a declaration to declare that the development plan No.7 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.



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

This writ petition is disposed of accordingly. No costs.

21.04.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

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To

1. The Secretary,
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