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Writ Petition No.12484 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.12484 of 2023

M.Shanthi
W/o.Murugesan

...Petitioner

Vs

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

2.The Member Secretary,
Tiruppur Local Planning Authority,
1st Floor, Kumaran Commercial Complex,
Tiruppur - 641 601.

3.The Land Acquisition Officer,
Tiruppur.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of declaration to declare that the property to the extent of 4.81 acre in Survey No.S.F.No.311, 314/1A, Tirupur South Taluk, Nallur Village, Tiruppur ("Property") forming part of MAP Nos.4 & 5, DDP (CR)/DTCP No.27/2012 vide Pro No.27071/08 DP2 dated 02.12.2010 (Tiruppur Local Planning Area-Nallur Detailed Development



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Plan No.3) which was approved by the Director of Town and Country Planning, the first respondent for a "B1B1-50' Feet Road", 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 v. The Director of Town and Country Planning, in W.P.(MD) No.8515 of 2021 dated 25.06.2021.

For Petitioner : Mr.P.Puhazh Gandhi

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 Survey No.S.F.No.311, 314/1A, Tirupur South Taluk, Nallur Village, Tiruppur ("Property") forming part of MAP Nos.4 & 5, DDP (CR)/DTCP No.27/2012 vide Pro No.27071/08 DP2 dated 02.12.2010 (Tiruppur Local Planning Area- Nallur Detailed Development Plan No.3) which was approved by the Director of Town and Country Planning/first respondent for a "B1B1-50' Feet Road", has lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter called as 'the Act').



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2. Heard Mr.P.Puhazh Gandhi, learned counsel for the petitioner and Mr.S.Arumugam, learned Government Advocate for respondents.

3. The case of the petitioner is that B1B1-50' feet road scheme was announced and it was approved by the first respondent. 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 petitioner, 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.3 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



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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 petitioner stands released from the detailed development plan.

This writ petition is disposed of accordingly. No costs.

25.04.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
gm

To

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N.ANAND VENKATESH, J

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