



W.A.No.2696 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2696 of 2023

The Commissioner
Thiruvallur Municipality
J.N.Road SH-57
Thiruvallur – 602 001.

.. Appellant

Vs.

1. T.R.Murugesan
2. V.Ramabhadra Raju

3. The Director
Tamil Nadu Town and Country Planning
2nd, 3rd and 4th Floor, C & E Market Road
Koyambedu, Chennai – 600 107.

4. The District Collector
Thiruvallur District, Chinna Ekkadu
Jaya Nagar, Thiruvallur – 602 001.

5. The Assistant Director
Directorate of Town & Country Planning
Thiruvallur – 602 001.

.. Respondents



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Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 03.02.2023 in W.P.No.33802 of 2022

For the Appellant : Mr.P.Srinivas

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

Heard Mr.P.Srinivas, learned counsel for the appellant.

2. The appellant assails the order passed by the learned Single Judge of this Court dated 03.02.2023 in W.P.No.33802 of 2022.

3. Under the impugned order, the learned Single Judge has taken note of the fact that as the land has not been acquired within a period of three years, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (for brevity, hereinafter referred to as "the Act of 1971"), the remaining area, other than the layout already developed, shall be released from the development plan. Learned Single Judge has also made it clear that



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if in future, the Government intend to acquire the land for any other purpose, the impugned order herein would not be a bar for the Government to acquire the land as per the provisions of the Land Acquisition Act.

4. Learned counsel for the appellant submits that there were many disputed question of facts and litigations were pending, as such, acquisition could not take place. The subject property was used as a road. Learned counsel for the appellant further submits that because of financial stringency, the Corporation could not acquire the land and initiate the process of acquisition.

5. Section 38 of the Act of 1971 is a fetter on the power of eminent domain. Because of the Act of 1971, a rightful owner can not use the land reserved for a particular purpose in the development plan. Section 38 of the Act of 1971 operates as a fetter on the power of the Government to keep the subject land under reservation in perpetuity .



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6. Earlier also, respondents 1 and 2 had filed a writ petition bearing W.P.No.4329 of 2018, where the learned Single Judge of this Court disposed of the said writ petition under order dated 12.04.2022. The learned Single Judge in the said writ petition asked the petitioners therein to file a fresh application for acquisition of the subject land.

7. The land was reserved in the year 1969. The owners are deprived of the use and enjoyment of the said land since 1969. The learned Single Judge has not committed any error while passing the impugned order.

8. The writ appeal is devoid of merits, as such, stands dismissed. There will be no order as to costs. Consequently, C.M.P.No.22631 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
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D.BHARATHA CHAKRAVARTHY, J.

(drm)

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