

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED : 28.04.2023****CORAM****THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH****W.P No.13821 of 2023**

Dr.B.K.Sivakumar

Petitioner

vs.

1.The Government of Tamil Nadu
Represented by the Principal Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai – 600 009.

2.The Director of Town and Country Planning,
O/o. the Directorate of Town and Country Planning,
2nd, 3rd & 4th Floors,
E & C Market Road,
Koyambedu, Chennai – 600 107.

3.The Deputy Director,
Krishnagiri Town and Country Planning,
District Town and Country Planning Office,
25/2, Nethaji Road, Hosur – 635 109

4.The Commissioner,
Krishnagiri Municipality,
327, Gandhi Road,
Krishnagiri District,
Pincode 635 001.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Mandamus, to direct the 2nd respondent to pass orders on
the 4th respondent's letter dated 20.02.2023 with reference No. Na. Ka. No. 347



/ 2023 / F1 for abrogation of the proposal for laying 18 meters (60 feet road) as per proposed expansion plan 11 (A1-A1) through the petitioner's land comprised in Town Survey Nos.11/26, 11/27 and 11/6C1A (old Town Survey No.11/6, Survey 827/ 2; Old T.S. No.11/ 5B2, Survey No.828/1, 2) situated in Ward - D and Block - 23 of Boganapalli Village, Krishnagiri Taluk and District and consequently direct the 4th respondent to grant approval for the petitioner's application dated 30.01.2023.

For Petitioner : Mr.S.R.Sundar for
Mr.S.Ramesh

For Respondents : Mr.C.Selvaraj
Additional Government Pleader
for R1 to R3
Mr.B.Anand for R4

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the 2nd respondent to pass orders based on the letter issued by the 4th respondent dated 20.02.2023 and consequently, direct the 4th respondent to grant approval for the application submitted by the petitioner on 30.01.2023.

2.Heard Mr.S.R.Sundar, learned counsel appearing on behalf of the petitioner, Mr.C.Selvaraj, learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 and Mr.B.Anand, learned counsel appearing on behalf of the respondents.



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3. The case of the petitioner is that he is the owner of the subject property by virtue of a registered Doc.Nos.1463/2020, 1462/2020, 3165/2020 and 1464/2020. The further case of the petitioner is that his name has also been mutated in the revenue records. The petitioner applied for planning permission on 30.01.2023 to the 4th respondent for the purpose of constructing a School in the subject property. At that point of time, the petitioner was informed that there was a proposal in the year 1994 to form a road and development plan was also mooted. However, it is stated that in spite of the publication that was made in the Tamil Nadu Government Gazette in this regard in the year 1994, the acquisition did not take place within a period of three years and as a result, the entire development plan has lapsed.

4. The 4th respondent had sent a letter dated 20.02.2023 to the 3rd respondent informing that the 4th respondent Municipality had already passed a resolution approving for the abrogation of the proposed expansion plan. According to the petitioner, this communication was also sent to the 1st respondent on 13.04.2023. Since no decision was taken thereafter, the present writ petition has been filed before this Court seeking for appropriate directions.



5. In the considered view of this Court, the expansion plan that was proposed in the year 1994 for which a publication was also made in the Government Gazette, has lapsed, since the acquisition of the lands did not take place within a period of three years as contemplated under Section 37 of the Tamil Nadu Town and Country Planning Act, 1971. Hence, as per Section 38 of the Act, the proposed plan automatically lapses. Under Such circumstances, the so-called expansion plan will not stand in the way of the petitioner from prosecuting his application seeking for planning permission, if it is otherwise in order. This fact has also been conformed by the 4th respondent through letter dated 20.02.2023.

6. In the light of the above discussion, there shall be a direction to the 4th respondent to proceed further with the processing of the application seeking for planning approval without awaiting for any formal orders from the 2nd respondent, since the expansion plan itself has abated under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. Hence, it is left open to the 4th respondent to scrutinize the application and see if the petitioner has satisfied all the other requirements and take a decision on the application submitted by the petitioner on 30.01.2023, within a period of six weeks from the date of receipt of copy of this order.



WEB COPY 7. This writ petition is disposed of with the above directions. No Costs.

28.04.2023

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

To

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N. ANAND VENKATESH, J.

SSR

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