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Writ Petition No.16865 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16865 of 2023

Kausalya
W/o.Nallasivam

...Petitioner

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 I.T.T.,
Erode – 638 009.

...Respondents

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.77 & 78/1, Plot No.7 (SIMI Garden) in Punjailakkapuram Village, Modakkurichi Taluk, Erode



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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 Petitioner : Mr.M.Guruprasad
For Respondents : Mr.C.Selvaraj
Additional Government Pleader

ORDER

This writ petition has been filed for a direction to declare the reservation made in respect of property in R.S.Nos.77 & 78/1, Plot No.7 (SIMI Garden) 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 petitioner and Mr.C.Selvaraj, learned Additional Government Pleader for respondents.

3. The case of the petitioner is that 'scheme park' was announced and it was approved by the third respondent through proceedings in ROC No.77/2005/ELPA. According to the petitioner, no steps were taken to acquire the lands and it continued to be in possession and enjoyment of



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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.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.

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



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N.ANAND VENKATESH, J

gm

This writ petition is disposed of accordingly. No costs.

07.06.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

gm

To

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