



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.17284 of 2023

1.K.Vinothini
2.S.Nivethika
3.K.Ishwariya
4.R.Athavaitha

Petitioners

vs.

1.The Director of Town & Country Planning,
Office of the 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 Commissioner,
Tiruppur Municipal Corporation,
Tiruppur.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare that the property comprised in Old S.No.306, New S.No.306/1A measuring to an extent of acres 1.85 cents, and in Old S.No.306, New S.No.306/1C measuring to the extent of acre 0.14 cents, and in Old S.No.305, New S.No.305/1D measuring acre 0.19 cents and in Old S.No.306, New S.No.306/1B measuring acre 1.00 an total extent acres 3.18 cents situated at Nallur



No.4&5, DDP (CR)/DTCP No.27/2012 vide proceedings No.27071/08 DP2 dated 02.12.2010 for Thiruppur Local Planning Area-Nallur Detailed Development Plan No.3 which was approved by the Director of Town and Country Planning the first respondent for a B1B1-50' Feet Road and the same has been published in the Tamil Nadu Government Gazette on 09.02.2011 in Part VI Section 1 by the 1st respondent herein, 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 decisions of this Court in W.P.(MD)No.8515 of 2021 dated 25.06.2021 and W.P.No.11410 of 2023 dated 13.04.2023.

For Petitioners : Mr.P.Tamilmani

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 comprised in Old S.No.306, New S.No.306/1A measuring to an extent of acres 1.85 cents, and in Old S.No.306, New S.No.306/1C measuring to the extent of acre 0.14 cents, and in Old S.No.305, New S.No.305/1D measuring acre 0.19 cents and in Old S.No.306, New S.No.306/1B measuring acre 1.00 an total extent acres 3.18 cents situated at Nallur Village, Tiruppur South Taluk, Tiruppur District (property) forming part of MAP No.4&5, DDP (CR)/DTCP No.27/2012 vide proceedings No.27071/08 DP2 dated 02.12.2010 for Thiruppur Local Planning Area-Nallur Detailed Development Plan No.3 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.P.Tamilmani, learned counsel for petitioners and Mr.S.Arumugam, learned Government Advocate for respondents.

3. The case of the petitioners is that B1-B1 50 feet road scheme was announced and it was approved by the first respondent. 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.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 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.



N. ANAND VENKATESH, J.

ssr

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.

**12.06.2023
(2/2)**

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

To

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