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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.17983 of 2023

and

W.M.P.Nos.17138 & 17141 of 2023

1.P.Mathiyarasu

2.C.Muthusamy

3.N.Palanivelu

4.C.Sekaran

5.R.Saravanan

6.S.S.Rajendran

... Petitioners

vs.

1 The Secretary

Housing and Urban Development Department
Fort St. George, Chennai 600 015.

2 The Director of Town and Country Planning

2, 3 & 4 Floor, B, CMDA Office Campus,
E & C, Market Road,
Koyambedu
Chennai 600 107.

3 The Deputy Director

Namakkal District Town and Country Planning Office



Paramathi Road
Namakkal 637 001

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- 4 The Member Secretary/Executive Officer
Thiruchengode Local Planning Authority
Thiruchengode, Namakkal District.
- 5 The Commissioner
Thiruchengode Municipality
No.1, Velur Road, (Near Town Police Station)
Tiruchengode 637 211.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring that the reservation made in respect of the Petitioners' land comprised in T.S.L.R.No.4/2 (Old S.No.311/3B) Ward G, Block.37, Thiruchengode Town measuring to an extent of 1662 square meter under Thiruchengode detailed development Plan Nos.2 and 7 is deemed to be lapsed and released from the reservation in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 1974).

For Petitioner : Mr.V.Anandhamoorthy
For Respondents : Mrs.S.Muythreye Chandru
Special Government Pleader

ORDER

This writ petition has been filed for a direction to declare the reservation made in respect of property in T.S.L.R.No.4/2 (Old S.No.311/3B) Ward G, Block.37, Thiruchengode Town, measuring to an extent of 1662 square meter under Thiruchengode detailed



development Plan Nos.2 and 7 is deemed to be lapsed and released from the reservation in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 1974).

2. Heard Mr.V.Anandamoorthy, learned counsel for the petitioner and Mrs.S.Mythreye Chandru, learned Special Government Pleader for respondents.

3. The case of the petitioner is that 'BB 60' and 'C2 C2 50' feet road scheme was announced and it was approved by the 1st 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 Thiruchengode Detailed Development Plan Nos.2 and 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 and 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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7. This writ petition is disposed of accordingly. No costs.

Consequently, the connected miscellaneous petition is closed.

20.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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To

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N. ANAND VENKATESH, J.
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