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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18550 of 2023

and

W.M.P.No.17781 of 2023

1 Kalaivani Vasu

2 Kanimozhi

... Petitioners

vs.

1 The Secretary
Housing and Urban Development Department
Fort St. George
Chennai 600 015

2 The Director of Town & Country Planning
Office of the Directorate of Town & Country Planning
Second, Third and Fourth Floor
C & E Market Road
Koyambedu
Chennai 600 107

3 The Member Secretary
Erode Town & 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 for issuance of a Writ of Declaration to declare the reservation made in respect of the properties in R.S.No.77 & 78/1, Plot No.17 (SIMI Garden) in Punjailakkapuram Village, Modakkurichi Taluk, Erode 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.

For Petitioner : Mr.M.Guruprasad
For Respondents : Ms.S.Mythreye Chandru
Special Government Pleader

ORDER

This writ petition has been filed for a direction to declare the reservation made in respect of the properties in R.S.No.77 & 78/1, Plot No.17 (SIMI Garden) in Punjailakkapuram Village, Modakkurichi Taluk, Erode 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.



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

3. The case of the petitioner is that 'B2 - B2' 40 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 Punjailakkapuram Detailed Development Plan Nos. 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.

7. This writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

23.06.2023

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

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6

N. ANAND VENKATESH, J.
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