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Writ Petition No.18842 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.18842 of 2023
and W.M.P.No.18084 of 2023

1.Raajashekar

2.D.P.Kumar

...Petitioners

Vs

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

2. The Director of Town and Country Planning,
Second, Third and Fourth Floor, B, CMDA Office Campus,
E&C Market Road,
Koyambedu, Chennai – 600 107.

3.The Deputy Director,
Erode District Town and Country Planning Office,
Channimalai Road,
Opp to Government ITI, Erode – 638 009.

4. The Member Secretary/Executive Officer,
Erode Local Planning Authority,
Erode District.

5.The Assistant Commissioner,
Zone-III, Erode Corporation Office,
Erode District

...Respondents



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Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of declaration, declaring that the reservation made in respect of the petitioners land comprised in R.S.No.237/4 (Sub divided as S.F.No.237/4C) measuring to an extent of 0.24 Acres, and property comprised in R.S.No.237/7 (Sub-divided as S.F.No.237/7B) measuring to an extent of 4642 Sq.Ft situated at Ward No.32, Zone – III, Erode Corporation under Veerappanchatram Town Panchayat Detailed Development Plan No.23 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 Petitioners : Mr.V.Anandhamurthy
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 the petitioners land comprised in R.S.No.237/4 (Sub divided as S.F.No.237/4C) measuring to an extent of 0.24 Acres, and property comprised in R.S.No.237/7 (Sub-divided as S.F.No.237/7B) measuring to an extent of 4642 Sq.Ft situated at Ward No.32, Zone – III, Erode Corporation forming part of Veerappanchatram Town Panchayat Detailed Development Plan No.23 has lapsed by virtue



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of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971
(hereinafter called as 'the Act').

2. Heard Mr.V.Anandhamurthy, learned counsel for petitioners and Mr.S.Arumugam, learned Government Advocate, appearing for respondents.

3. The case of the petitioners is that Veerappanchatram Town Panchayat Detailed Development Plan No.23 scheme was announced and it was approved by the respondents. 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.23 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.



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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 petitioners stands released from the detailed development plan.

This writ petition is disposed of accordingly. No costs.

26.06.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

SSR



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N.ANAND VENKATESH., J

SSR

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