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W.P.No.20095 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.20095 of 2023

M/s. Greenfield Housing India Private Limited
Represented by its Managing Director
C.K.Balasubramaniam
Having its registered Office at
No.48/2, Sangu Nagar Road
Surampatti, Erode 638 011.

...Petitioner

Vs.

1.The Secretary
Housing and Urban Development Department
Fort St.George
Chennai 600 15.

2.The Director
Directorate of Town and Country Planning
CMDA Tower
E & C Market Road, Koyambedu
Chennai 600 107.

3.The Member Secretary
Coimbatore Local Planning Authority
Coimbatore Corporation Shopping Complex
Dr.Nanjappa Road
Coimbatore 641 018.



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4.The Commissioner
Coimbatore City Municipal Corporation
Town Hall
Coimbatore 641 001.

...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.Nos.247/4A, 247/4B, 247/4C and 247/4D in Vellanaipatti Village, Coimbatore Taluk, Coimbatore District, forming part of Coimbatore Master Plan 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.P.Anandha Kumar
Government Advocate

ORDER

The Writ Petition has been filed seeking for issuance of Writ of Declaration, to declare the reservation made in respect of the properties in RS.Nos.247/4A, 247/4B, 247/4C and 247/4D in Vellananipatti Village, Coimbatore Taluk, Coimbatore District forming part of Coimbatore Master



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plan to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country and Planning Act, 1971.

2. According to the petitioner, he purchased the properties in RS.Nos.247/4A, 247/4B, 247/4C and 247/4D with the extent of 1.69 acres in Vellananipatti Village, under a registered sale deed, dated 26.08.2016 for a valid consideration from one A.John Kennedy. The said properties have been in possession and enjoyment of the petitioner and the patta for the same stands in the name of the petitioner's company in Patta No.3327. The Tamil Nadu Government issued a G.O.Ms.Nos.661 vide H& UD dated 12.10.1994 for a Master plan for Coimbatore Local Planning Area, wherein it was proposed to lay a 100 feet ring road and the proposed scheme road will affect the above mentioned properties of the petitioner.

3. It is the specific case of the petitioner that the above said master scheme for Coimbatore Local Planning Area was issued on 12.10.1994, but till date no steps have been taken to acquire the lands earmarked for 100 feet master plan ring road.



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4. In such circumstances, the learned counsel for the petitioner by taking this Court to Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, submitted that if the land is not acquired within three years from the date of publication of scheme in the Tamil Nadu Government Gazette, the same is deemed to be released from the reservation, allotment or designation. Therefore, it is the submission of the learned counsel for the petitioner that the petitioner is entitled to the declaration as prayed for.

5. Mr.P.Anandha Kumar, learned Government Advocate, who takes notice for the respondents, is not in a position to place any materials to show that the acquisition proceedings were initiated to acquire the lands of the petitioner for the purpose of development of 100 feet Master plan ring road.

6. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, reads as follows;

“38. Release of Land:- If within five years from the date of the publication of the notice in the Tamil Nadu Government Gazette under Section 26 or 27-



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(a) no acquisition of land as provided in sub-section (2) of section 37 is made in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice; or

(b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation:

Provided that the Government may, by notification, extend the period for such as they may think proper, but such extended period shall, in no case, exceed five years.”

7. A reading of above provision make it clear that if no acquisition proceedings are initiated before expiry of five years or within extended period, if any, from date of publication of master plan in Government Gazette in respect of any land reserved for any specific purpose, such land shall be deemed to be released from such reservation. In the case on hand no material in placed before this Court to show acquisition proceedings initiated within time prescribed under said provision.



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8. In such circumstances, in view of Section 38 of the Tamil

Nadu Town and Country Planning Act, 1971, the petitioner is entitled to declaration as prayed for and accordingly this Writ Petition is allowed. No costs.

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