



WEB COPY



W.P.No.21507 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.21507 of 2023

and

W.M.P.Nos.20877 & 20878 of 2023

1.M/s.VRN Construction

A partnership firm

Represented by its Partner

Mr.K.R.Jeganathan

No.17B, SNR College Road

Nava India, Coimbatore 641 004.

2.Dhanasekar Nallasamy

...Petitioners

Vs.

1.The Commissioner

Director of Town and Country Planning

Chengalvarayan Building

4th Floor, 807 Anna Salai, Chennai 600 002.

2.The Joint Director

District Town and Country Planning Office

Coimbatore District

Corporation Shopping Complex 2nd Floor

Dr.Nanjappa Road, Coimbatore 641 018.

3.The Local Planning Authority – Coimbatore

1st Floor, Raju Naidu Street

Sivananda Colony, Coimbatore 641 012.

...Respondents



W.P.No.21507 of 2023

WEB COPY

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the detailed development plan number 8, Kalapatti Village approved under Section 29 of the Town & Country Planning Act, 1971 and numbered as M&P Nos.4 & 5 DDP (CR)/DTCP No.21/2000, vide proceedings in Roc.No.7811/98 DP3, dated 10.08.2022 to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and consequently, direct the respondents to entertain the application of the petitioners and grant approval for development of the lands situated at Kalapatti East Village, Coimbatore District, in Survey Nos.1024/1A1, 1024/1A2A, 1024/1A2B, 1024/1A2C, 1025/1A1, 1025/1A2 and 1018/2, totally measuring about 5.34 acres.

For Petitioners : Mr.OLV.Ganesan
for M/s.Ganesh and Ganesh

For Respondents : Mrs.S.Anitha
Special Government Pleader



W.P.No.21507 of 2023

WEB COPY

ORDER

The petitioners are the owner of the lands situated in S.Nos.1024/1A1, 1024/1A2A, 1024/1A2B, 1024/1A2C, 1025/1A1, 1025/1A2 and 1018/2, totally measuring about 5.27 acres, situated at Kalapatti East Village, Coimbatore District. The petitioners filed an application on 09.05.2022 seeking permission for development of the above said lands. The petitioners were informed by the office of the respondents 2 & 3 that a proposed scheme road as per Kalapatti detailed development plan number 8, pass through the subject lands, is required to be deleted for considering the approval of plans.

2. It is the case of the petitioners that the said Kalapatti detailed development plan number 8 was approved as early as 10.08.2000. Thereafter, no proceedings were initiated for acquisition of the above said lands and no further declaration was made or published by the Government under Section 37 (2) of the Tamil Nadu Town and Country Planning Act, 1971 and therefore, the above said property has been released from the reservation/allotment made under the detailed development plan.



W.P.No.21507 of 2023

3. The learned counsel for the petitioner by taking this Court to the typed set of papers and Tamil Nadu Town and Country Planning Act, 1971 submitted that since the respondents have not taken any land acquisition proceedings within the time prescribed under the Act, the reservation made for detailed development plan is deemed to be lapsed.

4. Mrs.S.Anitha, learned Special Government Pleader, who takes notice for the respondents, on instructions, submitted that Kalapatti detailed development plan No.8 was approved under Section 29 of the Tamil Nadu Town and Country Planning Act, 1971, on 10.08.2000 and the proposed DVC scheme road is crossing through the petitioner's land. However, the learned Special Government Pleader appearing for the respondents is not in a position to say as to whether any acquisition proceedings have been initiated in pursuance of the detailed development plan till today.

5. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, which reads thus:

“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 Section 27-*



W.P.No.21507 of 2023

(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, New Town Development Plan or a Land Pooling Area Development Scheme] 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 time as they may think power, but such extended period shall, in no case, exceed five years."

6. A reading of the above provision would make clear that if no acquisition proceedings is initiated in pursuance of the detailed development plan within five years from the date of approval, the land reserved under the plan get automatically released from such reservation/allotment. In the case on hand, the said Kalapatti detailed development plan No.8 was approved on 10.08.2000. In the case on hand admittedly the above said detailed development plan was approved as early as 10.08.2000. Therefore, 23 years have lapsed from the date of approval and till date no acquisition proceedings have been initiated under Section 37(2) of the said Act. In such circumstances,



W.P.No.21507 of 2023

by operation of Section 38 above said Act, the lands which were reserved, allotted or designated for specific purpose under the detailed development plan scheme automatically gets released. In such circumstances, the petitioner is entitled to issue of Writ of Declaration as prayed for. Accordingly, this Writ Petition is allowed.

7. The application submitted by the petitioner for development of the above said lands has to be considered by the respondents in accordance with law in the light of the observations made above. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.08.2023

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



W.P.No.21507 of 2023

WEB COPY

To

- 1.The Commissioner
Director of Town and Country Planning
Chengalvarayan Building
4th Floor, 807 Anna Salai, Chennai 600 002.
- 2.The Joint Director
District Town and Country Planning Office
Coimbatore District
Corporation Shopping Complex 2nd Floor
Dr.Nanjappa Road, Coimbatore 641 018.
- 3.The Local Planning Authority – Coimbatore
1st Floor, Raju Naidu Street
Sivananda Colony, Coimbatore 641 012.



WEB COPY



W.P.No.21507 of 2023

S.SOUNTHAR, J.
dna

W.P No.21507 of 2023
and
W.M.P.Nos.20877 & 20878 of 2023

16.08.2023