



WEB COPY



W.P.No.22384 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.22384 of 2023

M.Anitharani

...Petitioner

Vs.

1.The Director of Town and Country Planning,
Office of Directorate of Town and Country Planning,
Second, third and fourth floors,
E& C Market Road,
Koyambedu, Chennai-600 107.

2.The Member Secretary,
Tiruppur Local Planning Authority,
1st floor, Kumaran Commercial Complex,
Tiruppur-641 601.

3.The Commissioner
Tiruppur Municipal Corporation
Tiruppur.

..Respondents.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of declaration, to declare that the property comprised in Old S.No.311, New S.No.311/9 and in Old.S.No.307/2, New S.No.307/2A part



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together measuring to an extent of acre 4.81 cents situated at Nallur Village, Tiruppur South Taluk, Tiruppur District(property) forming part of MAP.No.4 &5, DDP(CR) DTCP No.27/2012 vide proceeding No.27071/08 DP2 dated 02.12.2010 for Thiruppur Local Planning Area-Nallur Detailed Development Plan No.3 which was approved by the Director of Town and Country Planning, the 1st respondent for a B1-B1, 50ft road and the same has been published in the Tamil Nadu Government Gazette on 09.02.2011 in Part VI Section I by the 1st respondent herein, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning, Act, 1971 (TC Act 35 of 1974) and the decisions of this Court in W.P.(MD).No.8515 of 2021 dated 25.06.2021, W.P.No.11410 of 2023 dated 13.04.2023, W.P.No.12484 of 2023 dated 24.04.2023, W.P.No.17284 of 2023 dated 12.06.2023 and W.P.No.19532 of 2023 dated 30.06.2023.

For Petitioner

:Mr.P.Tamilmani

For Respondent 1

: Mr.J.Ravindran
Additional Advocate General-IX
Assisted by Mrs.S.Anitha
Special Government Pleader

For respondent 2 & 3

: Mr.Abishek Murthy
Standing Counsel



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ORDER

The petitioner herein seeks issuance of a writ of declaration to declare that the property comprised in Old S.No.311, New S.No.311/9 and in Old.S.No.307/2, New S.No.307/2A part, measuring an extent of 4.81 cents situated at Nallur Village, Tiruppur South Taluk, Tiruppur District(property) forming part of MAP.No.4 &5, DDP(CR) DTCP No.27/2012 vide proceeding No.27071/08 DP2 dated 02.12.2010 for Thiruppur Local Planning Area-Nallur Detailed Development Plan No.3 which was approved by the 1st respondent for a B1-B1, 50ft road published in the Tamil Nadu Government Gazette on 09.02.2011 has lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning, Act, 1971

2. It is the case of the petitioner that petitioner is the owner of 4.81 cents of land by virtue of sale deed dated 12.12.2005 registered as document No.4812/2005 on the file of Sub-Registrar, Nallur and the petitioner has been in possession and enjoyment of the said property from the date of purchase.



When the petitioner wanted to develop the above mentioned property, he was informed by the respondents that above mentioned property falls within the designated area in Tiruppur Local Planning Area-Nallur Detailed Development Plan No.3 approved by the 1st respondent on 09.02.2011. It is the specific case of the petitioner that though the detailed development plan was approved as early as on 09.02.2011, no acquisition proceedings have been initiated for acquiring above mentioned land, which was reserved for B1-B1 50 feet road in the detailed development plan.

3. The learned counsel for the petitioner by relying on Section 38 of Tamil Nadu Town and Country Planning, Act, 1971 submits that since 10 years have gone from the date of approval of the detailed development plan, the reservation made under the detailed development plan has elapsed.

4. The learned Special Government Pleader for the 1st respondent on instructions submits that a master plan for the above said area has been prepared by the Department as early as on 31.12.2013 itself and the above said scheme roads have been incorporated in the master plan which is in the draft



consent stage. It is also stated by the learned Special Government Pleader that acquisition proceedings will be initiated within a stipulated time.

5. Mr. Abishek Murthy, learned counsel for the 2nd and 3rd respondents submits that the property was inspected by the officials of the 2nd respondent authority on 18.08.2023 and the land of the petitioner found to be vacant. The learned counsel further submits that the master plan for the area will be prepared by September 2023.

6. Though the matter came up before this Court on 28.07.2023, 11.08.2023, 18.08.2023 and till date, no counter have been filed by the respondents. However, on instructions, the learned counsel for the respondent only submits that a master plan was already prepared and it is pending in draft consent stage. As far as the issue raised by the learned counsel for the petitioner is concerned, the lands were included in the area reserved for B1-B1 50 feet road in the detailed development plan approved as early as on 09.02.2011. Therefore, now 10 years have gone from the date of approval.



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Section 38 of 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 section 27-

(a) no declaration 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 proper, but such extended period shall, in no case, exceed five years.

7. A perusal of the above said provision would make it clear that if no



acquisition proceedings is initiated in respect of any land reserved, allotted or designated for any purpose specified in the detailed development plan, such land will get automatically released from such reservation or allotment or designation.

8. A proviso to Section 38 empowers Government to extend the time limit by another five years. In the case on hand, no such extension has been granted by the Government. Even assuming such extension is given, that period would have been over as 10 years have already lapsed from the date of approval of the detailed development plan. Therefore, there is no difficulty in coming to the conclusion that the lands of the petitioner reserved for specific road in the detailed development plan got released by operation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971.

9. In view of the discussions made earlier, the petitioner is entitled to declaration as prayed for. Accordingly, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.



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10. It is needless to say that allowing of this writ petition will not prevent the respondents from preparing or approving new master plan or new detailed development plan in accordance with law.

22.08.2023

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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3.The Commissioner
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S.SOUNTHAR, J.
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