



WEB COPY



W.P.No.26750 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.26750 of 2023

- 1.S.Kasthuri
- 2.Kavithasivagami
- 3.B.Baby
- 4.P.Jagadeeswaran
- 5.V.Karthikeyan
- 6.V.Jayakumar

....Petitioners

Vs.

- 1.The Secretary
Housing and Urban Development Department,
Fort St. George, Chennai – 600 015.
- 2.The Director of Town and Country Planning,
Office of the Directorate of Town and Country Planning
Second, Third and Fourth Floor,
C & E, Market Road,
Koyembedu,
Chennai – 600 107.
- 3.The Member Secretary,
Erode Town and 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, to issue a Writ of Declaration, to declare that the reservation made in respect of



W.P.No.26750 of 2023

the properties in S.No.153/1 measuring to an extent of 2.47 acres (Old No.130 131) in Punjailakkapuram Village, Modakkurichi Taluk, Erode District forming part of Punjailakkapuram Detailed Development Plan No.4 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 Petitioners : Mr.A.Kumaraguru

For Respondents : Mrs.S.Anitha
Special Government Pleader

ORDER

The petitioners herein seek issue of Writ of Declaration declaring that the reservation made in respect of the properties in S.No.153/1 measuring an extent of 2.47 acres (Old No.130 131) in Punjailakkapuram Village, Modakkurichi Taluk, Erode District, forming part of Punjailakkapuram Detailed Development Plan No.4 has lapsed in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. It is the case of the petitioners that the petitioners 1 to 4 got 1.12 cents of land in S.No.153/1 in Punjailakkapuram Village, Modakkurichi Taluk, Erode District, under a registered Partition Deed dated 25.03.1986. The petitioners 5 & 6 got 1.32 cents of land in S.No.153/1 under a registered



W.P.No.26750 of 2023

Partition Deed from their father and sister. Thus, the petitioners claim right over the 2.47 acres of land in S.No.153/1 in Punjailakkapuram Village, Modakkurichi Taluk, Erode District. It is the specific case of the petitioners that the above said lands were reserved for scheme park in Punjailakkapuram Detailed Development Plan No.4 published in the year 2005. So far, no steps have been taken for acquisition of the above said lands. Therefore, by virtue of operation of Section 38 of the Tamil Nadu Town and Country Planning Act, the lands of the petitioners got released.

3. Mrs.S.Anitha, learned Special Government Pleader appearing for the respondents on instructions, submits that till date, no acquisition proceedings have been initiated against the petitioners' lands in pursuance of the Detailed Development Plan No.4.

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

38.Release of land :- If within three 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.26750 of 2023

WEB COPY

(a) no declaration as provided in sub-section (2) of section 37 is published 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.

5. A reading of above said provision would make it clear that if no acquisition proceeding is initiated in pursuance of the Detailed Development Plan within five years from the date of approval, the lands reserved in the Detailed Development Plan get automatically released from such reservation. In the case on hand, the Detailed Development Plan was approved in the year 2005 and even after a lapse of 18 years, no steps have been taken for acquisition of lands reserved for proposed scheme park. In such circumstances, by operation of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the lands of the petitioners got released. Therefore, the petitioners are entitled to issue of Writ of Declaration as prayed for.



W.P.No.26750 of 2023

6. With these observations, the writ petition stands allowed. No costs.

WEB COPY

26.09.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
nti

To

1. The Secretary
Housing and Urban Development Department,
Fort St. George, Chennai – 600 015.
2. The Director of Town and Country Planning,
Office of the Directorate of Town and Country Planning
Second, Third and Fourth Floor,
C & E, Market Road,
Koyembedu,
Chennai – 600 107.
3. The Member Secretary,
Erode Town and Country Planning Authority Office,
Chennimalai Road, Opposite to Govt. I.T.T.,
Erode – 638 009.



WEB COPY



W.P.No.26750 of 2023

S.SOUNTHAR, J.
nti

W.P No.26750 of 2023

26.09.2023