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W.P.No.26602 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.26602 of 2023
and WMP.No.26009 of 2023

Mohanaramakrishnan

....Petitioner

Vs.

- 1.The Secretary
Housing and Urban Development Department,
Fort St. George, Chennai – 600 015.
- 2.The Director of Town and Country Planning,
2, 3 & 4th Floor, B, CMDA Office Campus,
E & C, Market Road,
Koyembedu,
Chennai – 600 107.
- 3.The Deputy Director,
Erode District Town and Country Planning Office,
Chennimalai Road,
Opp to Government I.T.I.,
Erode -638 009.
- 4.The Member Secretary/Executive Officer,
Erode Local Planning Authority,
Erode District.
- 5.The Commissioner,
Erode City Municipal Corporation Office,
Brough Road, Erode – 638 001.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the reservation made in respect of the petitioner lands comprised in R.S.No.287/ 1B, 1C, measuring to an extent of 3.31 Acres and property comprised in R.S.No.287/2A, 2B measuring to an extent of 4.15 acres situated at Ward No.19, Zone -III, Erode Corporation under Veerappanchatram Town Panchayat Detailed Development Plan No.21 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 Petitioner : Mr.S.Kousik-MS/2474/2018
for Mr.V.Anandhamurthy

For Respondents : Mrs.S.Anitha
Special Government Pleader
for R1 to R4

Mr.M.Rajamathivanan
Standing Counsel for R5

ORDER

The petitioner herein seeks issue of Writ of Declaration declaring that the reservation made in respect of the petitioner's land comprised in R.S.No.287/1B, 1C measuring an extent of 3.31 acres and property comprised in R.S.No.287/2A, 2B measuring an extent of 4.15 acres situated at Ward No.19, Zone -III, Erode Corporation under Veerappanchatram Town Panchayat



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Detailed Development Plan No.21 is deemed to be lapsed and released from the reservation under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. It is the case of the petitioner that he is the absolute owner of the above mentioned properties, having got the same under the registered Partition Deed dated 09.02.2009. The Town Planning Authorities had ear-marked the petitioner's lands in the Veerappanchatram Town Panchayat Detailed Development Plan No.21 prepared in the year 1994. Though the petitioner's lands were ear-marked and reserved for proposed scheme road in the Detailed Development Plan referred above, till date no acquisition proceedings have been initiated for acquiring the above said lands. The Detailed Development Plan was notified in the year 1994. But, even after the expiry of nearly 29 years, no steps have been taken for acquisition of the above said lands. Therefore, in view of the operation of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner's lands are deemed to be released.

3. Mrs.S.Anitha, learned Special Government Pleader appearing for the respondents 1 to 4 and Mr.M.Rajamathivanan, learned Standing Counsel



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appearing for the 5th respondent on instructions, submits that so far no acquisition proceedings have been initiated against the petitioner's lands.

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-*

(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



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1994 and even after a lapse of 29 years, no steps have been taken for acquisition of lands reserved for proposed scheme road. In such circumstances, by operation of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the lands of the petitioner got released. Therefore, the petitioner is entitled to issue of Writ of Declaration as prayed for.

6. With these observations, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2023

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