



WEB COPY

W.A(MD)No.522 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN**

**W.A(MD)No.522 of 2023
and
CMP(MD)No.5286 of 2023**

1. The Principal Secretary,
Housing and Urban Development Department,
St. George Fort,
Secretariat, Chennai-600 009.

2. The Director,
Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.

3. The Member Secretary,
Thanjavur Local Planning Authority,
A-2, 7th Street, Arulananda Nagar,
Thanjavur - 613 007.

... Appellants

-VS-

Victoria Joseph

... Respondent

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 23.11.2020 made in W.P(MD)No. 16410 of 2020.



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W.A(MD)No.522 of 2021



For Appellants : Mr.S.P.Maharajan
Special Government Pleader
For Respondent : Mr.R.Karunanidhi

JUDGMENT

**[Judgment of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

This writ appeal is directed against the impugned order dated 20.11.2020 passed by the learned Single Judge in W.P(MD)No.16410 of 2020, in which, the learned Single Judge taking note of the legal position already decided by this Court in previous cases, has come to the conclusion that Section 38 of the Tamil Nadu Town and Country Planning Act is attracted in the present case for the reason that after earmarking and initiating the proceedings, the 1st appellant had approved the same and published in the Official Gazette vide G.O.Ms.No.969, dated 09.08.1995 for 100 feet ring road in the Master Plan Scheme Road. Later on, the 1st appellant also has passed a Government Order in G.O(2D)No.03 dated 11.01.2017 and released the nearby lands of the writ petitioner situated in Survey Nos.221/17, 223/1, 223/3, 234/2A, 234/8, 235/16 and 238/29. Till date, as rightly held by the learned Single Judge, no further progress or development is taken place.



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2. Therefore, following the authoritative pronouncements made by this Court in **The Commissioner Aruppukottai Municipality vs. Kamakshi Shetty** reported in **2011 (8) MLJ 437, A.Raja vs. The Director of Town and Country Planning and others (W.P(MD)No.15350 of 2016 dated 30.11.2016 and V.Nagamani and another vs. Director of Town and Country Planning, Chennai and others** reported in **(2010) 2 MLJ 688** and considering Section 38 of the Tamil Nadu Town and Country Planning Act which makes it clear that if no steps have been taken for acquisition of the lands within three years from the date of the publication of the notification in the Tamil Nadu Government Gazette under Sections 27 of the Act, the land shall be deemed to be released from such reservation, allotment or designation, the learned Single Judge found that pursuant to the proposal for a "Proposed 100 feet ring road in the Thanjavur Master Plan" by the appellants, the adjoining lands have not been acquired, and held that Section 38 of the Tamil Nadu Town and Country Planning Act is attracted in the present case. On this basis, the learned Single Judge allowed the writ petition. We also do not find any error in the impugned order.



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3. Hence, the Writ Appeal fails and it is dismissed. No costs. Connected miscellaneous petition is closed.

[T.R., A.C.J.] [R.S.M., J.]
26.04.2023

NCC : Yes / No
Index : Yes / No
Internet: Yes / No
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To

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and
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JUDGMNET MADE IN
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DATED : 26.04.2023