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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.7443 of 2023

Asif Mohamed

... Petitioner

vs.

1.The Director,
Directorate of Town and Country Planning,
2nd, 3rd, 4th Floor, C & E Market Road,
Koyambedu, Chennai-600 107.

2.The Member Secretary,
Thanjavur Local Planning Authority,
No.5, Ganapathi Nagar 2nd Street,
Medical College Road,
Thanjavur – 613 010.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to direct the respondents No.1 and 2 to release the petitioner's land with an extent of 1 Acre 67½ cents situated in Town Survey No.1581/1 and Town Survey No.1581/2 at Block No.41, Ward No.1, Velur Vattam, Thanjavur Town, Thanjavur District treating the “Karanthai Detailed Development Plan Part-III (Map No.5)” as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.



For Petitioner :Mr.R.Karunanidhi
For Respondents :Mr.J.Ashok
Additional Government Pleader

ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking a direction against the respondents to release the land of the petitioner measuring 1 acre and 67½ cents at Town S.No.1581/1 and Town S.No.1581/2 at Block No.41, Ward No.1, Velur Vattam, Thanjavur District by treating the Karanthai Detailed Development Plan Part-III (Map No.5) as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2.Heard Mr.R.Karunanidhi, learned Counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader for the respondents.

3.In the affidavit filed in support of this Writ Petition, it had been stated that the petitioner had purchased the said property on 24.07.2009 by a registered document vide Doc.No.2027/2009 on the file of the Sub



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Registrar, Karanthattankudi. He had approached the second respondent to regularise the land. It was then informed that the land was earmarked under the scheme, named, Karanthai Detailed Development Plan Part-III(Map No.5) for proposed 30 feet road and for school.

4.The learned Counsel for the petitioner stated that under Section 38 of the Act, the land should be released if within three years from the date of publication of the notice in the Tamil Nadu Government Gazette, the land had not been acquired.

5.In this connection, the learned Counsel for the petitioner had placed reliance on an earlier order with respect to the very same Karanthai Detailed Development Plan Part-III(Map No.5). A learned Single Judge of this Court by an order, dated 27.09.2019, in W.P. (MD)No.9118 of 2009 [A.George (died) and another vs The Member Secretary, Thanjavur Local Planning Authority and others) had examined the very same issue and had finally stated as follows.

“12.Likewise, there is no dispute or disagreement that there is no acquisition of aforesaid land that was reserved in the instant case.

13.Therefore, in the considered view of this Court, it follows



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as an indisputable sequitur that the land reserved in the instant case ie., case on hand also stands released by operation of Section 38 of T.N.T.C.P.A Act.

14.The further sequitur is that the impugned order made by the third respondent has to be set aside.

15.In the light of narrative thus far, instant writ petition is allowed. There shall be no costs.”

6.It is also stated that another learned Single Judge of this Court in W.P.(MD)Nos.29118-29120 of 2022, [Rahman Beevi vs the Director, Directorate of Town and Country Planning and another], dealt with Karanthai Detailed Development Plan Part-VI and by an order, dated 20.01.2023 had stated as follows:

“2.The petition mentioned land was reserved for road purposes in the detailed development plan in the year 1988. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 is 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.”

3.In this case, within three years from the date of publication of the detailed development plan, the land was not acquired. Since consequential steps were not taken, it is declared that the reservation made in respect of the petition mentioned land is deemed to have lapsed. It stands released from such reservation in view of the aforesaid statutory provision. The respondents are directed to make the necessary changes in the revenue record.



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4. These writ petitions are allowed accordingly. No costs."

7. The reasons therein enure to the petitioner also. Accordingly, since the land had not been acquired within a period of three years from the date of publication of the detailed development plan and since consequential steps have not been taken, I hold that the land stands released from such reservation. The respondents are directed to make necessary changes in the revenue records.

8. The Writ Petition stands allowed. No order as to costs.

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

24.04.2023

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C.V.KARTHIKEYAN, J.

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Order made in
W.P.(MD)No.7443 of 2023

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