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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2023

CORAM

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

W.P.(MD)No.8235 of 2023

1.N.Subramanian
2.V.Gunamani

... Petitioners

vs.

1.The Director,
Town and Country Planning Department,
CMDA Building, Koyambedud, Chennai – 600 017.

2.The Member Secretary / Joint Director,
District Town and Country Planning Officer,
Kajamalai, Trichy, Trichy District.

3.The Commissioner,
Trichy Corporation, Trichy, Trichy District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, to declare that the reservation in respect of the petitioner's land as Plot Nos.1 and 4 situates in Survey Nos.147/4 and 154/1 admeasuring to an extent of 2240 & 2400 sq.ft., respectively of Pandamangalam Village, Ko-Abishegapuram Zone, Trichy Corporation, Trichy District forming part of Pandamangalam Detailed Development Plan No.4 approved by the first respondent in



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Roc.No.14830/05 DP-33, dated 21.04.2011 to have lapsed in the light of the Section 38 of Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act of 1972)

For Petitioner	:Mr.K.Ponnaiah
For R1 and R2	:Mr.N.Muthu Vijayan Special Government Pleader
For R3	:Mr.K.R.Kishore for M/s.R.B.Associates

ORDER

This Writ Petition has been filed in the nature of a Declaration to declare the reservation in respect of the petitioner's land as Plot Nos.1 and 4 situated in Survey Nos.147/4 and 154/1 admeasuring to an extent of 2240 & 2400 sq.ft., respectively of Pandamangalam Village, Ko-Abishegapuram Zone, Trichy Corporation, Trichy District forming part of Pandamangalam Detailed Development Plan No.4 approved by the first respondent in Roc.No.14830/05 DP-33, dated 21.04.2011 to have lapsed in the light of the Section 38 of Tamil Nadu Town and Country Planning Act, 1971.



2.Heard Mr.K.Ponniah, learned Counsel for the petitioner, Mr.N.Muthu Vijayan, learned Special Government Pleader for the first and second respondents and Mr.K.R.Kishore, learned Counsel for the third respondent.

3.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.

4.In this connection, the learned Counsel for the petitioner had placed reliance on an earlier order with respect to 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.”

5.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."

6. 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.

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

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

27.06.2023

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C.V.KARTHIKEYAN, J.

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Order made in
W.P.(MD)No.8235 of 2023

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