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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2023

CORAM

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

W.P.(MD)No.9216 of 2023

M/s.iDream Properties,
represented by its Proprietor, R.Murthy,
Chennai – 13.

... Petitioner

vs.

1.The Director of Town and Country Planning, Chennai,

2.The District Collector, Madurai District,

3.The Commissioner, Madurai Corporation, Madurai.

4.The Member Secretary,
Madurai Local Planning Authority,
Madurai Corporation, Madurai.

5.The Authorized Officer,
Indian Bank, Madurai Branch, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 to 4 to release the lands measuring 24 cents in S.No.34/5A measuring 80 cents in S.No.34/5B measuring 1.86 Acres in S.No.36/1, measuring 70 cents in S.No.37/4 measuring 1.37 Acres in S.No.37/10A, measuring



0.33 cents in S.No.38/3A, measuring 1 Acre in S.No.35/2A measuring 1 Acre in S.No. 32/2B2 in Uthangudi Village, Madurai, as the part of the said lands are covered under the Uthangudi North D.D.Plan, in MAP No. 3, C.No. 1206/2007 MATHI-3, and approved by the 1st respondent in MAP No.3 DDP(MR)/DTCP No. 30/2010, vide his proceeding ROC No. 25082/05/DP2, dated 26.06.2010 and it has been lapsed due to the failure of acquisition of the land within three years of the said notification and as such liable to be released the said lands as under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner :Mr.R.Suriyanarayanan
For R1, R2 and R4:Mr.J.Ashok
Additional Government Pleader
For R3 :Mr.A.Nagendran
For R5 :Mr.C.Karthick

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondents 1 to 4 to release the lands measuring 24 cents in S.No.34/5A measuring 80 cents in S.No.34/5B measuring 1.86 Acres in S.No.36/1, measuring 70 cents in S.No.37/4 measuring 1.37 Acres in S.No.37/10A, measuring 0.33 cents in S.No. 38/3A, measuring 1 Acre in S.No.35/2A measuring 1 Acre in S.No. 32/2B2 in Uthangudi Village, Madurai, as part of the said lands covered



under the Uthangudi North D.D.Plan, in MAP No. 3, C.No. 1206/2007 MATHI-3, and approved by the 1st respondent in MAP No.3 DDP(MR)/DTCP No. 30/2010, vide his proceeding ROC No. 25082/05/DP2, dated 26.06.2010 as it had lapsed due to the failure of acquisition of the land within three years of the said notification and as such liable to be released the said lands as under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2.Heard Mr.R.Suriyanarayanan, learned Counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader for the respondents 1, 2 and 4, Mr.A.Nagendran, learned Counsel for the third respondent and Mr.C.Karthick, learned Counsel for the fifth 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 in ***W.P.(MD)No.9118 of 2009***

[A.George (died) and another vs The Member Secretary, Thanjavur

Local Planning Authority and others), wherein, this Court 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 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



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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.

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

6. The reasons therein enure to the petitioner also.

7. It is also stated by the learned Special Government Pleader that the land acquisition proceedings had not moved forward at all and that it is an admitted fact that three year period has been lapsed.

8. 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.

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

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

09.06.2023

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To

1.The Director of Town and Country Planning, Chennai,

2.The District Collector, Madurai District,



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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)No.9216 of 2023

09.06.2023