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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.14895 of 2021

P.Muniyandi

... Petitioner

Vs.

1.The Director,
Directorate of Town & Country
Planning Office,
Opposite to LIC,
Chengalvarayan Building,
4th Floor, 807, Annasalai,
Chennai-600 002.

2.The Madurai Corporation,
Rep by its Commissioner,
Madurai.

3.The Madurai Local Planning
Authority,
Rep by its Member Secretary,
Anna Maligai, 3rd Floor,
Corporation Buildings,
Madurai – 625 002.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the Respondents in the name of “Uthangudi North Detailed Development Plan” and all appending proceedings and the consequential order of the 3rd respondent N.K.No.2249/2020 mathi-2 dated 03.09.2020 and quash the same in respect of Petitioner's Plot No.55 in “Aathi Eswaran Nagar” located in S.No.43/13B, Uthangudi Village, Madurai District and consequently direct the respondents to regularize the said plot of the Petitioner and grant necessary planning permission including site plan and consequential reliefs to the Petitioner.

For Petitioner	: Mr.A.Rajaram
For R-1	: Mr.R.Suresh Kumar Additional Government Pleader
For R-2 & R-3	: Mr.S.Vinayak

ORDER

This writ petition has been filed for Certiorarified Mandamus to quash the impugned order dated 03.09.2020 and consequently direct the respondents to regularize the Plot No.55 in “Aathi Eswaran Nagar” located in S.No.43/13B, Uthangudi Village, Madurai District.



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2. The respondents have refused to grant approval since, the said area was covered under the “Uthangudi North detailed Development Plan”. Eventhough the petitioner's land is covered under the “Uthangudi North detailed Development Plan”, the respondents have not proceeded further and carried out the notification and other formalities. The respondents have also not initiated the land acquisition proceedings within a period of 3 years, as stated in the Tamil Nadu Town & Country Planning Act. The 3 years limitation has been extended to 5 years. The amendment which was carried out in the year 2018. Even 5 years period is applicable in the present case, the detailed development plan was published in the year 1997. Therefore, it is beyond the period of limitation in the Tamil Nadu Town & Country Planning Act. In the similar case, another learned Single Judge has considered the same issue and allowed the Writ Petition and direct the respondents to grant the regularization. The said order is extracted hereunder:

2.The petitioner's request for regularization of his plot has been declined on the ground that Scheme road runs across the plot in question.



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3.This Court called upon the respondent's counsel to indicate the year in which the Scheme was formulated. It is stated the Scheme was formulated and DD development plan was published way back on 25.03.1997. Therefore, the authorities were obliged to have initiated Land Acquisition proceedings within a period of three years, thereafter no such proceedings were initiated, the land reserved for the purpose in question is deemed to have been released as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. Therefore, the reason set out in the impugned communication is clearly unsustainable in law.

4.In this view of the matter, the order impugned in this writ petition is quashed. The respondents are directed to regularize the plot in question and grant necessary planning permission in accordance with law and planning norms.

5.The Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

3.In view of the above said order, this Court is allowing the said
Writ Petition.



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4. Following the same, the impugned order, dated 03.09.2020 is hereby quashed. The respondents are directed to grant approval for the development plan, within a period of eight weeks from the date of receipt of a copy of this order.

5. With these observations and directions, this Writ Petition is allowed. There shall be no order as to costs.

Index : Yes / No
Internet : Yes
NCC : Yes / No
Sml/Ksa

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S.SRIMATHY, J

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