



W.P.(MD)No.16296 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16296 of 2021
and
W.M.P.(MD).No.13133 of 2021

A.Vignesh

... Petitioner

Vs.

1.The State of Tamil Nadu,
Through its Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai.

2.The Director,
The Directorate of Town and Country Planning,
807, Anna Salai, Chennai – 600 002.

3.The Dindigul Local Planning Authority,
Represented by its Additional Director,
Presently functioning at
H96, Vivekananda Nagar,
Opposite Rotary Club Hall,
Trichy Road, Dindigul.

4.The City Municipal Corporation,
Dindigul,
Represented by its Commissioner.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, that the petitioner's property in old T.S.No.1944/8A in patta No.2800 of Dindigul Municipal Corporation, Ward-6, Block 40, New T.S.No.246 measuring 1 acre and 14 cents comprised in the above mentioned survey number is released from the reservation of scheme road AA 70'0" and C2C2 180'0" in the modified master plan for Dindigul Local Planning area as notified by Government of Tamil Nadu per Notification dated 24.07.2001 in G.O.Ms.No.327 Housing and Urban Development (UD 4.2) Department, the first respondent, in view of Section 38 of the Tamil Nadu Town and Country Planning, Act, 1970.

For Petitioner : Mr.H.Lakshmi Shankar

For R-1 to R-3 : Mrs.D.Farjana Ghoushia,
Special Government Pleader

For R-4 : Mr.J.Lawrance

ORDER

This Writ Petition has been filed for a declaration that the property belonging to the petitioner which was brought within the scheme road AA 70'0" and C2C2 180'0" in the modified master plan for Dindigul Local Planning area notified by the Government on 24.07.2001 in G.O.Ms.No.327, lapsed by virtue of the land not been acquired within the time stipulated under Section 38 of the Tamil Nadu and Country Planning Act, 1970.



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2. When the matter came up for hearing on 07.12.2023, this Court passed

the following order:

“The only issue involved in both these Writ Petitions is as to whether the respondents had proceeded further to acquire the land within the time stipulated under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 or the very Notification declaring Dindigul Local Planning Area has “lapsed”?

2. The learned Special Government Pleader shall take instructions in this regard and report before this Court.

3. Post this Writ Petition under the caption “For Orders” on 15.12.2023.”

3. When the matter was taken up for hearing today, the learned Additional Government Pleader produced the written instructions received from the Deputy Director, Directorate of Town and Country Planning. On going through the same, it is seen that the land that was brought within the scheme was not acquired.



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4. The issue that is involved in this Writ Petition is squarely covered by the earlier orders passed by this Court. It will suffice if one of the order that was passed in W.P.(MD).No.14735 of 2020, dated 29.10.2020 is taken note of and the relevant portion in the order is extracted hereunder:

“5. A learned single Judge of this Court in W.P(MD).No.5221 of 2009 reported in 2010 (2) CTC 510 in the matter of V.Nagamani and another Vs., The Director of Town and Country Planning, Chennai and others involving the similar issue and the same Ponmeni Detailed Development Plan No.III, 1994 at Madakulam, Thirupparankundram Taluk, Madurai District has held that, since no action has been taken within a period of three years subsequent to the initial land acquisition notice issued in the year 1991, the Government has to release the land from acquisition as per Section 38 of the Tamil Nadu Town and Country Planning Act. The lands, which are the subject mater of the petition, also fall within the same Scheme, namely 'Ponmeni Detailed Development Plan No.III, 1994'. Since no action has been taken within three years from the date of the initial notice, the Government has to necessarily release the lands from acquisition in accordance with Section 38 of the Tamil Nadu Town and Country Planning Act, 1975. Accordingly, this Court



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declares that the lands belonging to the petitioner measuring to an extent of 1 Acre and 25 cents situated in Survey No.279/1 in Block No.29, Ward No.22, T.S.No.6/1A, 6/2 and 6/6 and to an extent of 14 cents situated in Survey No.283/2 in Block No.29, Ward No.22, T.S.No.2/2 at Madakulam, Thirupparankundram Taluk, Madurai District shall stand released from acquisition as per the provision of Section 38 of the Tamil Nadu Town and Country Planning Act, 1975. Accordingly, this Writ Petition is allowed. No costs."

5. In view of the above, there shall be a declaration that the lands belonging to the petitioner in old T.S.No.1944/8A in patta No.2800 of Dindigul Municipal Corporation, Ward-6, Block 40, New T.S.No.246 measuring 1 acre and 14 cents comprised in the above mentioned survey number shall stand released from the reservation of scheme road AA 70'0" and C2C2 180'0" in the modified master plan for Dindigul Local Planning area as notified by Government of Tamil Nadu per Notification dated 24.07.2001 in G.O.Ms.No. 327 Housing and Urban Development (UD 4.2) Department, as per Section 38 of the Tamil Nadu Town and Country Planning, Act, 1970.



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6. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

- 1.The Secretary,
The State of Tamil Nadu,
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- 2.The Director,
The Directorate of Town and Country Planning,
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- 3.The Dindigul Local Planning Authority,
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N.ANAND VENKATESH, J.

Nsr

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