



W.P.(MD) No.16314 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

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M/s.Aishalaya Realtors Pvt. Ltd.,
Represented by its General Manager,
14, North Street, Kirapatti Colony,
Trichy.

: Petitioner

-VS-

1.The Director of Town and Country Planning,
807, Anna Salai,
Chennai,
Chennai District.

2.The Member Secretary,
Madurai Town and Country Planning Authority,
Madurai, Madurai District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, to declare the reservation made in respect of the petitioner's land in Survey No.6/1A, Thirupurankundram, Madurai South Taluk, Madurai forming part of the Thiruparankundram Detailed Development Plan No.1 to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and consequently forbear the



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respondents from treating the development proposed in the said land as an unauthorized development/construction.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.M.Linga Durai
Special Government Pleader

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This Writ Petition is filed for issuance of a declaration to declare the reservation made in respect of the petitioner's land in Survey No. 6/1A, Thirupurankundram, Madurai South Taluk, Madurai forming part of the Thiruparankundram Detailed Development Plan No.1 to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and consequently forbear the respondents from treating the development proposed in the said land as an unauthorized development/construction.

2. The petitioner is a Company which has purchased the subject property for a valid consideration. However, when the petitioner applied for development of their land in S.No.6/1A purchased by the petitioner it was informed by the planning authority that the petitioner's land forms part of the Thiruparankundram



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Detailed Development Plan No.1 of the year 2001 and that therefore, the development by the petitioner is not permissible. In the said circumstances, relying upon Sections 37 and 38 of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner has come forward with the above writ petition on the ground that the respondents who failed to acquire the land reserved for the purpose under the detailed development plan within the limitation period cannot restrain the petitioner to develop the land. This Court has considered the scope of Sections 37 and 38 of the Tamil Nadu Town and Country Planning Act, 1971 in several cases. Eventhough it is permissible for the planning authorities to reserve a private property for a public purpose in a Detailed Development Plan under the provisions of the Tamil Nadu Town and Country Planning Act, 1971, such reservation cannot continue unless the property shown or earmarked for a public purpose is acquired within a period of five years from the date of publication of the notice either under Section 26 or Section 27 of the Tamil Nadu Town and Country Planning Act, 1971. In this case, the Deputy Director of Town and Country Planning, by his proceedings dated 06.07.2023 has given intimation in unambiguous terms that the land which was reserved earlier about 10 years back has not been acquired by invoking the provisions of the



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Land Acquisition Act or Right to Fair Compensation and
Transparency in Land Acquisition, Rehabilitation and Resettlement
Act, 2013 (Act 30 of 2013).

3. In the said circumstances, this Court finds that the petitioner is entitled to the relief as prayed for. Accordingly, the Writ Petition is allowed and the reservation made in respect of the petitioner's land in S.No.6/1A is declared as lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. However, liberty is given to the respondent to proceed further in accordance with law in case they require the land for a public purpose. No costs.

[S.S.S.R., J.] [D.B.C., J.]

07.08.2023

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

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