



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.07.2023**

CORAM:

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

**W.P(MD)NO.20 OF 2022
and
W.M.P(MD)No.8 of 2022**

L.Narayanan

:Petitioner

.VS.

- 1.The Director of Town and Country Planning,
Office of the Director of Town and Country Planning,
Anna Salai, Chennai-2.
- 2.The Member Secretary in-charge,
Madurai Local Planning Authority,
Madurai Corporation Building,
IIIrd Floor, Anna Maaligai,
Madurai -2.
- 3.The Commissioner,
Madurai Corporation,
Madurai.
- 4.The Executive Engineer(Scheme)(in-charge),
Madurai Corporation,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Ma.Thi. 2/06613/2021, dated 26.7.2021, on the file of the fourth



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respondent and to quash the same as illegal and consequently for a direction to the respondents to regularize the Petitioner's residential plot to an extent of 5 cents and 422 sq.ft in Plot No.29, Thiruppalai Village, Madurai North Taluk, Madurai District within the time stipulated by this Court.

For Petitioner	:Mr.S.Rajasekar for M/s.T.Lajapathi Roy
For Respondents 1 and 2	:Mr.P.Thilak Kumar Govt.Pleader
For Respondents 3 and 4	:M/s.S.Devasena Standing Counsel

ORDER

(Order of the Court was made by S.S.SUNDAR,J)

This Writ Petition is filed challenging the order, dated 26.7.2021, by which, final approval for the application filed by the Petitioner seeking regularization of a plot in a lay-out was rejected, despite the regularization granted by Town and Country Planning Authority, on the ground that the plot lies within the area ear-marked for the proposed scheme road as per the development plan.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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3.This Court finds that the order impugned herein is an order which is passed without an application of mind. In this case, not even a proposal to acquire the land is indicated. The date of publication of the preparation of any plan or approval of such plan by Government in terms of Section 27 or 28 of the Act is not given. While it is open to the Town and Country Planning authorities to earmark or reserve a private patta land also in a development plan for a public purpose, the land cannot be treated as a public land unless the land earmarked or reserved for a public purpose is acquired within a period of five years from the date of issuance of publication of notice under Section 26 or Section 27 of the Town and Country Planning Act. Section 38 of the Town and Country Planning Act reads as 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



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land shall be deemed to be released from such reservation, allotment or designation.

4.In that view of the matter, the order impugned is quashed.The Petitioner's application shall be considered by the authorities concerned, on merits and in accordance with law, within a period of six weeks from the date of a copy of this order.

5.With the above direction, the Writ Petition stands disposed of.
No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R.,J.] [D.B.C,J.]
19.07.2023

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

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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

vsn

ORDER MADE IN

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