



W.P(MD)No.29154 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.29154 of 2022

Mothilal

... Petitioner

Vs.

1.The Director of Town and Country Planning,
Office of the Town and Country Planning,
2nd, 3rd and 4th Floor, C & E Market Road,
Koyambedu,
Chennai-600 107.

2.The Member Secretary,
Tanjore Local Planning Authority,
33, 4th Rajappa Nagar,
Tanjore.

3.The Commissioner,
Tanjore City Corporation,
Gandhiji Road,
Shivaji Nagar,
Tanjore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to release a land measuring to an extent of 4800 Sq.ft. in S.No.263, Plot No.28, Devid and Co Avenue, Tanjore by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, by considering the representation sent by the petitioner, dated 19.12.2022 and pass any other order or orders as this Court.



W.P(MD)No.29154 of 2022

For Petitioner : Mr.Niranjana S.Kumar
For R-1 & R-2 : Mr.M.Lingadurai
Special Government Pleader
For R-3 : Mr.N.Dilip Kumar
Standing Counsel

ORDER

Heard the learned Counsel on either side.

2. The petition mentioned land was included in Detailed Development Plan in the notification published under Section 31 of the Tamil Nadu Town and Country Planning Act on 08.08.2007. However, the acquisition proceedings did not take place. Section 38 of the Tamil Nadu Town and Country Planning 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



W.P(MD)No.29154 of 2022

(b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation."

3. Paragraph No.4 of W.P(MD)No.15713 of 2017 reads as follows:

4. The issue involved in the present writ petition is squarely covered by the order passed by this Court in W.P(MD)No.8515 of 2021, dated 25.06.2021. The relevant portions of the order are extracted hereunder:

"6. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion:

1. M.Amsavalli Vs. Director of Town and Country Planning reported in (2017) 2 CWC 418.

2. RM.Shanmuganathan Vs. Director of Town and Country Planning reported in (2018) 2 CWC 20:

3. W.P(MD)No.5652 of 2019 (LKS Mohammed Meera Mohaideen Vs. Director of Town and Country Planning;



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W.P(MD)No.29154 of 2022

4. *W.A(MD)No.485 of 2020 (The Director of Town and Country Planning and another Vs. Muthu and others) and*

5. *W.P(MD)No.166 of 2021 (Nagendran Vs. The Director of Town and Country Planning).*

6. *In the present case, the detailed development plan was notified under Section 31 of the Act in the year 2006. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed."*

4. Applying the statutory mandate, it is declared that the petition mentioned land is deemed to have been released from the proposed detailed development plan. Since it has lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, the respondents are directed to carry out the necessary mutations in their relevant records. This writ petition stands allowed. There shall be no order as to costs.

10.01.2023

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



W.P(MD)No.29154 of 2022

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G.R.SWAMINATHAN, J.

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W.P(MD)No.29154 of 2022

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