



WEB COPY

W.P.No.657 of 2024
and W.M.P.No.677 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.657 of 2024
and W.M.P.No.677 of 2024

1.R.Arun Kumar
2.R.Sumathi

...

Petitioners

versus

1.The Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai - 6000 15.

2.The Director of Town & Country Planning,
Office of the Directorate of Town and Country Planning,
Second, Third and Fourth Floor,
C&E Market Road,
Koyambedu,
Chennai - 600 107.

3.The Member Secretary,
Erode Town and Country Planning Authority Office,
Chennimalai Road,
Opposite to Govt. I.T.T.,
Erode - 638 009.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring the reservation made in respect of the properties in S.No.172/1A1 measuring to an extent of 4 acres



(Old No.172-1A) in Punjailakkapuram Village, Modakkurichi Taluk, Erode District forming part of Punjailakkapuram Detailed Development Plan No.4 to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 by appreciating the above stated facts.

For Petitioners : Mr.A.Kumaraguru
For Respondents : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The Writ Petition is filed praying for issuance of a Writ of declaration, to declare the reservation made in respect of the petitioners land, in S.No.172/1A1 (Old No.172-1A) in Punjailakkapuram Village, Modakkurichi Taluk, Erode District, forming part of Punjailakkapuram Detailed Development Plan No.4 to have lapsed, in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents.

3. The case of the petitioners is that the scheme park has been announced by the Tamil Nadu Government reserving the subject property for



public purpose and the proposal was approved by the 3rd respondent through proceedings in R.O.C.No.74/2005/ELPA. According to the petitioners, no steps were taken to acquire the lands and it continued to be in possession and enjoyment of the petitioners. Hence, the petitioners have sought for a declaration to declare that the Detailed Development Plan No.4 has lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

4. In this regard, it is useful to refer Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, which reads as follows:-

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



WEB COPY

5. In this case, no consequential steps for acquiring the petition-mentioned land, were taken within a period of three years, and therefore, the aforesaid provision will have to be given full effect. As a result, the subject property belonging to the petitioners, stands released from the said Detailed Development Plan No.4.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

04.04.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

1.The Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai - 6000 15.

4/6



2.The Director of Town & Country Planning,
Office of the Directorate of Town and Country Planning,
Second, Third and Fourth Floor,
C&E Market Road,
Koyambedu,
Chennai - 600 107.

3.The Member Secretary,
Erode Town and Country Planning Authority Office,
Chennimalai Road,
Opposite to Govt. I.T.T.,
Erode - 638 009.



WEB COPY

W.P.No.657 of 2024
and W.M.P.No.677 of 2024



V.BHAVANI SUBBAROYAN, J.

sri

W.P.No.657 of 2024
and W.M.P.No.677 of 2024

04.04.2024