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W.P.No.2869 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.2869 of 2024

S.Nandhini

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Petitioner

versus

- 1.The Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai - 600 015.
- 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.

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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 R.S.No.102/1B and Old R.S.No.102/1, in Punjailakkapuram Village, Modakkurichi Taluk, Erode District forming part



of Punjailakkapuram Detailed Development Plan No.5 to have null & void/illegal/ ultra vires, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 by appreciating the above stated facts.

For Petitioner : 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 petitioner's land, in R.S.No.102/1B and Old R.S.No.102/1 in Punjailakkapuram Village, Modakkurichi Taluk, Erode District, forming part of Punjailakkapuram Detailed Development Plan No.5 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 petitioner and the learned Government Advocate appearing for the respondents.

3. The case of the petitioner is that C1-C1 50 feet road scheme has been announced by the Tamil Nadu Government and the proposal was approved by the 3rd respondent through proceedings in R.O.C.No.75/2005/Elpa-2. According to the petitioner, no steps were taken



to acquire the lands and it continued to be in possession and enjoyment of the petitioner. Hence, the petitioner has sought for a declaration to declare that the Detailed Development Plan No.5 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.”

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 petitioner, stands released from the said Detailed

Development Plan No.5.

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6. This Writ Petition is disposed of accordingly. No costs.

04.04.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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V.BHAVANI SUBBAROYAN, J.

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