



W.P. No.9461 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE **Mrs. JUSTICE V. BHAVANI SUBBAROYAN**

W.P. No.9461 of 2024

R.Mahalakshmi

.. Petitioner

Versus

1.The Director.

Directorate of Town and Country Planning,
E & C Market Road,
Koyambedu,
Chennai – 600 107.

2.The Member Secretary,

Erode Town and Country Planning Authority Office,
Chennimalai Road,
Erode.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, to declare the reservation made in respect of the petitioner's land, covered in R.S. No.223/3B, Punjai Lakkapuram Village, Erode Taluk and District, covered in Plot No.50, Puthiya Perunthu Nagar, forming part of Punjai Lakkapuram Detailed Development Plan, to have lapsed in view of Section 38 of the Tamil nadu Town and Country Planning Act 1971.



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For Petitioner : Mr.P.Kannan Kumar
For Respondents : Mr.M.Shahjahan
Special Government Pleader

ORDER

This writ petition has been filed to declare the reservation made in respect of the petitioner's land, covered in R.S. No.223/3B, Punjai Lakkapuram Village, Erode Taluk and District, covered in Plot No.50, Puthiya Perunthu Nagar, forming part of Punjai Lakkapuram Detailed Development Plan, to have lapsed in view of Section 38 of the Tamil nadu Town and Country Planning Act 1971.

2. The case of the petitioner is that she had purchased a land in Plot No.50, in Puthiya Perunthu Nagar to an extent of 2384 sq.ft., located in R.S.No.223/3B, in Punjai Lakkapuram Village, Erode Taluk, on 26.03.2014 vide Document No.1640/2019 registered before the Sub-Registrar, Avalpoondurai, Erode District and has been enjoying the same. The respondents have issued a detailed development plan in the year 2009 by including the petitioner's land comprised in Plot No.50 and thereafter, they have not proceeded further with the plan. Since the year 2009, the lands have not been acquired. However, the respondents have also issued online



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registration slip and admitted the payment of money for regularization of unapproved plots. Even though the petitioner's plot was covered in the Punjai Lakkapuram Detailed Development Plan of the year 2009, no further action was taken.

3. The learned counsel for the petitioner submitted that as per Section 38 of Tamil Nadu Town and Country Plan Act, if no acquisition is undertaken within a period of three years from the date of application of the Detailed Development Plan, by invoking Section 27 of the Act, the land will be deemed to have been released from the reservation made under the Plan. Though the petitioner's land was reserved in the year 2009 and not acquired till date and the lands are in possession and enjoyment of the petitioner, the reservation becomes invalid due to efflux of time. Similar issue has also been dealt by this Court in W.P.No.12524/2022 dated 12.05.2022 and this Court has held as under:

“ 3. The petition-mentioned land was the subject matter of Detailed Development Plan. It was earmarked for Scheme Road. The Gazette Notification was made way back in the year 2009. In this regard, it is useful to refer Section 38 of the Tamil Nadu Town and Country Planning Act, which reads as follows:



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“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.”

4. 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.

5. With the above direction, this Writ Petition stands allowed. No costs.”

4. Considering the facts and circumstances of the case, I feel the respondents shall be directed to consider the case of the petitioner in view of the order passed by this Court in W.P.No.12524/2022 dated 12.05.2022 and pass orders accordingly.



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5. Accordingly this writ petition is disposed with a direction to the respondents to consider the case of the petitioner in the light of the order passed by this Court in W.P.No.12524/2022 dated 12.05.2022 and pass orders within a period of eight weeks from the date of receipt of a copy of this order.

No costs.

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Index:Yes / No

Speaking order / Non speaking order

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To

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Directorate of Town and Country Planning,
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Koyambedu,
Chennai – 600 107.

2.The Member Secretary,

Erode Town and Country Planning Authority Office,
Chennimalai Road,
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V. BHAVANI SUBBAROYAN, J.,

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