



W.P.No. 31377 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM:

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

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1. Basudeen
2. Mohamed Rafi
3. Sultan Sickenthar
4. Mehraj Begum

.. Petitioners

Versus

1. The State of Tamil Nadu
represented by the Secretary,
Rural Development and Administration Department,
Fort St.George, Chennai – 600 009.

2. The Assistant Director,
Town and Country planning,
Villupuram Region,
TADCO Building G.H.Road,
Villupuram – 605 602.

3. The Commissioner,
Chidambaram Municipality,
No.5,Cutcherry Road,
Chidambaram – 608 001.

...Respondents



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Prayer: This petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the first respondent to de-notify the above lands of the writ petitioners comprised in T.S.Nos.61/2,63/3,64/3,66/4,62/1,62/2,46/2,46/1,46/3,48/1 and 48/3 admeasuring total extent of 8 Acres and 13 cents of therabouts situated at Ward-2, Block-B within the limits of Chidambaram Municipality Taluk, Cuddalore District which are already deemed released consequently to de-notify the Document No.1333 of 1970 registered in the office of the Registrar, Chidambaram by the first respondent and publish the same in appropriate medium and pass orders.

For Petitioner : Mr.M.Kamalanathan

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

ORDER

This petition is filed to issue a writ of Mandamus directing the first respondent to de-notify the above lands of the writ petitioners comprised in T.S.Nos.61/2,63/3,64/3,66/4,62/1,62/2,46/2,46/1,46/3,48/1 and 48/3 admeasuring total extent of 8 Acres and 13 cents of thereabouts situated at Ward-2, Block-B within the limits of Chidambaram Municipality Taluk, Cuddalore District which are already deemed released



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consequently to de-notify the Document No.1333 of 1970 registered in the office of the Registrar, Chidambaram by the first respondent and publish the same.

2.The facts of the case is that the petitioners are the owners of the property situated at T.S.Nos61/2, 63/3, 64/3, 66/4, 62/1, 62/2, 46/2 ,46/1 ,46/3,48/1 and 48/3 admeasuring total extent of 8 Acres and 13 cents of thereabouts situated at Ward-2, Block-B in Chidambaram Municipality Taluk, Cuddalore Districts. While so, Scheme No.6 was notified and sanction for the purpose of formation of new street and widening the existing street and for the public purpose development. Aggrieved over the same, the present has been filed before this Court seeking for appropriate orders.

3. The learned counsel for the petitioner submitted that the development plan automatically lapses on the expiry of three years from the date of publication as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971(hereinafter referred as “the Act”). Hence, prays to allow this petition.

4. Per Contra the learned Government Advocate appearing for the



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Respondents submitted that Section 38 of Tamil Nadu Town and Country Planning Act 1971, will not be applicable to this case. He further submitted that Scheme No.6 is for public utility and the purpose of the acquisition is only for the future development in the said area.

5. Before advertng further it is relevant to extract Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and the same is extracted hereunder:

“ 38. Release of land:- If within three years from the date of the publication of the notice of the Tamil Nadu Government Gazettee under Section 26 or 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,



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

6. On going through the above provision it is made clear that if no declaration is made as provided under Section 37(2) of the Act, the reservation or allotment or designation of the land for any purpose in the development plan will stand released. There is no material to show that any declaration was made under Section 37(2) of the Act, pursuant to the C1-C1 50 feet scheme road.

7. For the foregoing reasons, this Court directs the respondents to consider the case of the petitioner and pass appropriate orders within a period of five months from a receipt of a copy of this order, if it is otherwise in order. If any road or street formed by the Department the same shall not be released.

8. With the aforesaid direction, this writ petition is disposed of. No



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order as to costs.

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Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

smn

To

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High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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