



W.P.No.15219 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM:

THE HON'BLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.15219 of 2024

M/s.Vidhya Niketan Trust,
Rep by its Managing Trustee,
Rajini Krishnamoorthy,
Residing at No.21/17-18, Puliyakulam Road,
Coimbatore 641 045.

... Petitioner

Vs.

1. The Secretary,
Housing and Urban Development
Department,
Fort St. George, Chennai – 600 015.
2. The Director,
Tamilnadu Town and Country Planning,
Chennai – 600 002.
- 3.The Joint Director / Member Secretary,
Coimbatore Local Planning Authority,
No.50, FCI Road, Gandhimanagar, Ganapathy,
Coimbatore - 641 004.

...

Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to declare that the petitioner's land comprised in S.F.No.483/1, 491/4, 492/1, 492/3, 512/1, Ramanathapuram Village, Coimbatore North Taluk, Coimbatore, measuring about 2.25 acres is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 and consequently, direct the respondent to pass appropriate orders for release of petitioner's land comprised in S.F.Nos.483/1, 491/4, 492/1, 492/3, 512/1, Ramanathapuram Village, Coimbatore, North Taluk, Coimbatore, measuring



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about 2.25 acres.

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For Petitioner : Mr.M.R.Dhalapathy Vignesh Kumar

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

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the respondents to declare that the petitioner's land comprised in S.F.No.483/1, 491/4, 492/1, 492/3, 512/1, Ramanathapuram Village, Coimbatore North Taluk, Coimbatore, measuring about 2.25 acres is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 and consequently, direct the respondents to pass appropriate orders for release of petitioner's land comprised in S.F.Nos.483/1, 491/4, 492/1, 492/3, 512/1, Ramanathapuram Village, Coimbatore, North Taluk, Coimbatore, measuring about 2.25 acres.

2. The case of the petitioner is as follows:-

The petitioner, who is the absolute owner of the land situated at S.F.Nos.483/1, 491/4, 492/1, 492/3, 512/1, Ramanathapuram Village, Coimbatore, North Taluk, Coimbatore, measuring about 2.25 acres had purchased the same through a registered sale deed dated 27.03.2024 and registered as Document No.147/2024 before the SRO, Peelamedu. The 1st



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respondent in the year 2009, vide G.O.Ms.No.94 dated 12.06.2009, was pleased to form master plan in Coimbatore area and as per the master plan, the petitioner's land was earmarked as Scheme Road under the detailed development plan. The scheme was prepared in the year 2009 and subsequently, no action was taken by the respondents to acquire the land for the said purpose and the lands have not been acquired by the Government and remains in possession and enjoyment of the petitioner. Hence, the petitioner have made an application to the 3rd respondent for regularization of the above lands on 18.04.2024 and to release the petitioner's land from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, but the same has not been considered by the respondents till date. Hence, this Writ Petition.

3. The learned counsel for the petitioner submitted that the development plan has lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, since the lands have not been acquired within a period of three years from the date of publication and he further submitted that the similar issue has already been raised in ***W.P.No.34811 of 2023*** in the case of ***S.Vivekanandan and another v. The Director of Town & Country Planning, Office of Directorate of Town & Country Planning,***



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Second, Third and Fourth Floors, E & C Market Road, Koyambedu,

Chennai - 600 107 and Others, and this Court, after hearing the case of the petitioner therein, allowed the said writ petition by holding that ***the acquisition cannot be made at this stage, since the period of three years as contemplated under the said provision is already over.***

4. The learned counsel for the petitioner further contended that the similar issue has also been dealt with by this Court in W.P.No.33802 of 2022 on 03.02.2023, wherein this Court, allowed the said petition on the ground that ***the land has not been acquired within a period of three years, thereby, as per Section 8 of the Tamilnadu Town and Country Planning Act, the remaining area other than the layout already developed shall be released from the development plan***". Aggrieved by the order, the Commissioner, Thiruvallur had filed a Writ Appeal No.2696 of 2023. The Hon'ble First Bench of this Court, dismissed the said appeal on 04.10.2023. Therefore, the learned counsel for the petitioner prayed to allow the present Writ Petition also.

5. Per contra, a detailed counter affidavit has been filed by the third respondent wherein it is stated that the said scheme road is required for



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general public and development of the entire village and the respondents would take all steps to assess the land and acquire the same as early as possible. Hence the scheme road serves as an essential for the locality people, therefore, the petitioner's request for deletion of scheme road as per section 38 of Town and Country Planning Act, 1971 is devoid of merits, thereby pleaded to dismiss the petition.

6. Considering the above said facts and taking note of aforesaid decision made by this Court in W.P.No.33802 of 2022 dated 03.02.2023, the present Writ Petition is allowed and the respondents are directed to release the land situated at S.F.Nos.483/1, 491/4, 492/1, 492/3, 512/1, Ramanathapuram Village, Coimbatore, North Taluk, Coimbatore, measuring about 2.25 acres by virtue of Section 38 of Tamilnadu Town and Country Planning Act, 1971, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. It is also made clear that in the above land, if any public road has been found and laid, the same shall be part of the local body Government and shall not be released.

No costs.

Index:Yes/No
Speaking / Non- speaking order
gsk

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To



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V.BHAVANI SUBBAROYAN J.

gsk

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