



WEB COPY



W.P.No.17688 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.17688 of 2024 and
W.M.P.No.19454 of 2024**

1.Mrs.Karunambigai Arunkumar
2.Mr.Arunkumar

... Petitioners

Vs.

1.The Director of Town & Country Planning,
Office of Directorate of Town & Country Planning,
Second, Third and Fourth Floors,
E & C Market Road,
Koyambedu, Chennai 600 107.

2.The Member Secretary,
Coimbatore Local Planning Authority,
2nd Floor, Corporation Complex,
Dr.Nanjappa Road, Coimbatore.

3.The Land Acquisition Officer,
Coimbatore.

...

Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare that the property to the extent of 49.65 cents in S.F.No.342/1A2, Vellakinar Village, Coimbatore, Gandhigram Sub-registration District, Coimbatore Registration District forming part of Vellakinar detailed development Plan No.4, which was approved by the Deputy Director of Town and Country Planning, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and the decision of this Court in the case of Kannabiran Vs. The Director of Town and Country Planning, in W.P.(MD) No.8515 of 2021 dated 25.06.2021.



WEB COPY



W.P.No.17688 of 2024

For Petitioners : Mr.Shobhan M.Padmanabhan
For Respondents : Mr.A.M.Ayyadurai,
Government Advocate

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Declaration to declare that the property to the extent of 49.65 cents in S.F.No.342/1A2, Vellakinar Village, Coimbatore, Gandhigram Sub-registration District, Coimbatore Registration District forming part of Vellakinar detailed development Plan No.4, which was approved by the Deputy Director of Town and Country Planning, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and the decision of this Court in the case of Kannabiran Vs. The Director of Town and Country Planning, in W.P.(MD) No.8515 of 2021 dated 25.06.2021.

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

The petitioners, who are the absolute owners of the land situated at S.F.No.342/1A2, Vellakinar Village, Coimbatore, Gandhigram Sub-registration District, Coimbatore Registration District, measuring about 49.65 cents, had purchased the same through a registered sale deed in Document No.7460/2018, SRO, Gandhipuram. According to the petitioners, the subject property was reserved under the Detailed



W.P.No.17688 of 2024

Development Plan 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 petitioners. Therefore, the petitioners are before this Court with the above prayer.

3. The learned counsel for the petitioners 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, 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 petitioners further contended that the similar issue has also been dealt with by this Court in W.P.No.33802 of



W.P.No.17688 of 2024

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 petitioners prayed to allow the present Writ Petition also.

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



W.P.No.17688 of 2024

the present Writ Petition is allowed and the respondents are directed to release the land situated at S.F.No.342/1A2, Vellakinar Village, Coimbatore, Gandhigram Sub-registration District, Coimbatore Registration District, measuring about 49.65 cents 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. Consequently, connected miscellaneous petition is closed.

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

30.07.2024



WEB COPY



W.P.No.17688 of 2024

V.BHAVANI SUBBAROYAN J.

gsk

To

- 1.The Director of Town & Country Planning,
Office of Directorate of Town & Country Planning,
Second, Third and Fourth Floors,
E & C Market Road,
Koyambedu, Chennai 600 107.
- 2.The Member Secretary,
Coimbatore Local Planning Authority,
2nd Floor, Corporation Complex,
Dr.Nanjappa Road, Coimbatore.
- 3.The Land Acquisition Officer,
Coimbatore.

**W.P.No.17688 of 2024 and
W.M.P.No.19454 of 2024**

30.07.2024