



WEB COPY



W.P.No.20799 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.20799 of 2024

G.M.Suchithra

..Petitioner

-Vs-

1. Director of Town and Country Planning,
2nd, 3rd & 4th Floor,
C & E Market Road,
Koyambedu, Chennai – 600 107.
2. Regional Deputy Director,
Erode District Town
and Country Planning Office,
Chennimalai Road,
Opposite to Govt. I.T.T,
Erode-638 009.
3. Assistant Director,
District Town and Country Planning,
Sambath Nagar,
Uzhavar Sandhai Backside Gate,
Erode – 638001
4. Assistant Director/Member Secretary,
Gobichettipalayam Local Planning Authority,
Sambath Nagar,
Uzhavar Sandhai Backside Gate,
Erode – 638001.



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5. Commissioner,
Gobichettipalayam Local Planning Authority,
Gobichettipalayam,
Erode District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Declaration to declare the reservation made through Development Plan for the Lakkampatti village, Gobichettipalayam Taluk, dated 05.07.2000 bearing Map No.4 & 5 DDP (SR)/DTCP/SPL.TCP No.20/2000 vide proceedings in ROC No.34666/99 DP2, in respect of 60 feet road passing by dissecting the pies and parcel of land situated at No.1, Lakkampatti Village, Gobichettipalayam Taluk, Erode District comprised in Town Survey No.34/2 and Old Survey No.21(part), Block I and presently with Sub-divided Town Survey No.34/4 and Sub-division Patta No.12843 with land of an extent of Acre 2.45 cents, as lapsed pursuant to the operation of Section 38 of Town and Country Planning Act, 1971 and thereby consequentially direct the respondents to delete the reservation of 60 feet road in the above property of the petitioner from the above Development Plan dated 05.07.2000.

For Petitioner	: Mr.A.Palaniappan
For R1 to R4	: Mr.V.Manoharan Additional Government Pleader
For R5	: Mr.B.Anand Standing Counsel.

ORDER

This Writ Petition has been filed for a declaration to declare the reservation made through Development Plan for the Lakkampatti Village, Gobichettipalayam Taluk, dated 05.07.2000 bearing Map No.4 & 5



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DDP(SR)/DTCP/SPL.CTCP No.20/2000 vide proceedings in ROC

No.34666/99 DP2, in respect of 60 feet road passing by dissecting the piece and parcel of land situated at No.1, Lakkampatti Village, Gobichettipalayam Taluk, Erode District comprised in Town Survey No.34/2 and Old Survey No.21(part), Block I and presently with Sub-divided Town Survey No.34/4 and Sub-division Patta No.12843 with land of an extent of Acre 2.45 cents as lapsed pursuant to the operation of Section 38 of Town and Country Planning Act, 1971 (hereinafter referred to as “the Act”) and thereby consequently direct the respondents to delete the reservation of 60 feet road in the above property of the petitioner from the above Development Plan dated 05.07.2000.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner's father owned the property comprised in TS.No.34/2 and old Survey No.21(part), Block I, to an extent of 3.45 acres as per the partition deed dated 25.08.1975 registered vide document No.2272 of 1975. Thereafter, the petitioner's father had executed a settlement deed dated 30.10.2023 registered vide document No.3719 of 2023 in favour of the



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petitioner in respect of land to an extent of 2.45 acres, out of total extent of 3.45 acres. When the petitioner proposed to develop the said property, she came to know that in terms of the Development Plan for Gobichettipalayam Village, dated 05.07.2000 bearing Map No.4 & 5 DDP(SR)/DTCP/SPL.CTCP No.20/2000 vide proceedings in ROC No.34666/99 DP2 being approved under Section 29 of the Act, the second respondent reserved a portion of the land in the subject property to lay 60 feet road dissecting the subject property. Therefore, the development of the petitioner's property cannot be proceeded pursuant to the development plan dated 05.07.2000.

4. As per Section 38 of the Act, now, the plan itself was lapsed since it has not been executed within a period of three years from the date of publication of development plan. It is relevant to extract the provision of Section 38 of the Act is as follows

38. Release of land : - *If within five years from the date of the publication of the Notice in the Tamil Nadu Government Gazette under Section 26 or Section 27 -*

(a) no acquisition of land as provided in sub-section (2) of Section 37 is made in respect of any land reserved, allotted or designated for any purpose specified in a Regional Plan, Master Plan, [Detailed Development Plan, New



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Town Development Plan or a Land Pooling Area Development Scheme] 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:

Provided that the Government may, by notification, extend the period for such time as they may think proper, but such extended period shall in no case, exceed five years.]

5. Thus, it is clear that the respondents ought to have issued notice as provided under Section 26 and 27 of the Act to lay 60 feet road in the subject property, immediately, after development plan dated 05.07.2000. Admittedly, the respondents failed to serve any notice as contemplated under Section 26 and 27 of the Act. Further, the respondent also did not take any steps to acquire the said land as provided under Section 37 of the Act. Further, there is no declaration as provided under Section 37(ii) of the Act. All the subject properties were acquired within a period of three years from the date of publication of development plan dated 05.07.2000.

6. Further, on instructions, the learned Additional Government Pleader submitted that the entire plan has already been dropped and there is no



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proposal to lay the road with a width of 60 feet in the subject property. They have also not acquired any land and not laid any road.

7. In the result, this writ petition stands allowed. No costs.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

1.The Director of Town and Country Planning,
2nd, 3rd & 4th Floor,
C & E Market Road,
Koyambedu, Chennai – 600 107.

2.The Regional Deputy Director,
Erode District Town
and Country Planning Office,
Chennimalai Road,
Opposite to Govt. I.T.T,
Erode-638 009.

3.The Assistant Director,
District Town and Country Planning,
Sambath Nagar,
Uzhavar Sandhai Backside Gate,
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4. The Assistant Director/Member Secretary,
Gobichettipalayam Local Planning Authority,
Sambath Nagar,
Uzhavar Sandhai Backside Gate,
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5. The Commissioner,
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Gobichettipalayam,
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G.K.ILANTHIRAIYAN. J,

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