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W.P.No.21679 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

CORAM:

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

W.P.No.21679 of 2024
and
W.M.P.No.23652 of 2024

V.Amsarani

.... Petitioner

Vs

1. The Secretary

Housing and Urban Development Department,
Fort St George, Chennai - 600 015.

2. The Director of Town and Country Planning,
2, 3 & 4th Floor, B, CMDA Office Campus,
E & C, Market Road, Koyambedu,
Chennai - 600 107.

3. The Special Deputy Director,
Coimbatore - Nilgiris Region,
Coimbatore District Town and
Country Planning Office,
Coimbatore - 641 004.

4. The Member Secretary/Executive Officer
Coimbatore Local Planning Authority,
Coimbatore, Coimbatore District.

5. The Commissioner
Coimbatore Corporation Office,
Raja Street, Town Hall,
Coimbatore - 641 001.

.... Respondents



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Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of declaration declaring that the reservation made in respect of the petitioner's land comprised in T.S.No 44/11, Ward T, Block 14 in Coimbatore Corporation measuring to an extent of 68 cent under Ganapathy Detailed Development Plan No. 7 is deemed to be lapsed and released from the reservation in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 1974).

For Petitioner	: Mr.V.Anandhamoorthy
For R1 to R4	: Mr.C.Kathiravan Special Government Pleader
For R5	: Mr.K.M.D.Muhilan Standing Counsel

ORDER

This Writ Petition has been filed for declaration declaring that the reservation made in respect of the petitioner's land comprised in T.S.No 44/11, Ward T, Block 14 in Coimbatore Corporation measuring to an extent of 68 cent under Ganapathy Detailed Development Plan No. 7 is deemed to be lapsed and released from the reservation in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 1974) (herein after referred to as 'the Act')

2. The case of the petitioner is that she is the owner of the subject property by virtue of the document No.406/2018 on the file of the



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Sub Registrar, Ganapathy. The further case of the petitioner is that patta was also granted in her favour. The petitioner wanted to develop his property and she had approached the respondents and she was informed that the plan sanction will not be given since Detailed Development Plan has already been notified under Section 37 of the Act. The petitioner was informed that the concerned place is reserved for a proposed scheme road under the Detailed Development Plan. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4 and the learned Standing Counsel appearing for the fifth respondent.

4. The main issue that has been urged before this Court is that the detailed development plan has lapsed under Section 38 of the Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.

5. It is not necessary for this Court to consider the entire



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scheme of the Act, since for the very same detailed development scheme, a Division Bench of this Court in W.A (MD) No.485 of 2020 has held that the scheme had lapsed by virtue of Section 38 of the Act. The relevant portions in the judgment are extracted hereunder :-

“11. As rightly pointed out by the learned counsel appearing for the respondents/writ petitioners that the counter affidavit proceeds on the merits of the claim and in no way deal with deemed lapse and in the considered opinion of this Court, the learned Judge, on correct appreciation of facts and by applying the legal position as enumerated in the above said judgment, allowed the writ petition. This Court, on going through the reasons assigned in the impugned order, is of the considered view that there is no infirmity or error apparent on the face of the record for the reason assigned by the learned Single Judge for allowing the writ petition and finds that the writ appeal lacks merits.

12. It is also brought to the knowledge of this Court that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD) No.14456 of 2014 was also dismissed on 02.03.2020.”

6. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing



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the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion :

1. ***M.Amsavalli v. Director of Town and Country Planning*** reported in ***(2017) 2 CWC 418***.

2. ***RM.Shanmuganathan v. Director of Town and Country Planning*** reported in ***(2018) 2 CWC 20***.

3. ***W.P.(MD) No.5652 of 2019*** (LKS Mohammed Meera Mohaideen v. Director of Town and Country Planning)

4. ***W.A.(MD) No.485 of 2020*** (The Director of Town and Country Planning and another v. Muthu and others) and

5. ***W.P.(MD) No.166 of 2021*** (Nagendran v. The Director of Town and Country Planning).

7. In the present case, the detailed development plan was notified under Section 37 of the Act in the year 1994. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.



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8. In view of the above, the property belonging to the petitioner has to be released from the detailed development plan scheme, since it has lapsed under Section 38 of the Act. It is made clear that if the fifth respondent requires the subject land, it is open to the fifth respondent to proceed with the acquisition in accordance with law.

9. In the result, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

12.08.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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To

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G.K.ILANTHIRAIYAN. J,

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