



WEB COPY



Writ Petition No.25243 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Petition No.25243 of 2021

A.Kondasamy

...Petitioner

Vs

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

2.The Member Secretary,
Tiruppur Local Planning Authority,
544, Palladam Main Road Thottam,
Tiruppur – Palladam Road,
Town Extension, Thottam, Tiruppur,
Tiruppur District.

...Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of declaration to declare the Survey No.229/1A, Pitchampalayampudur Village, Tiruppur District forming part of the Vellampalayam Detailed Development Plan No.10 of 2010 to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN ACT 35 of 1974) and the decision of this Court in Kannabiran vs. The



Writ Petition No.25243 of 2021

Director of Town and Country Planning, W.P(MD) No.8515 of 2021 dated
25.06.2021.

For Petitioner : Mr.M.Mahaboob Athiff
For Respondents : Mr.N.Naveen Kumar
Government Advocate

ORDER

This writ petition has been filed for a direction to declare the reservation made in respect of the properties in S.No.229/1A, Pitchampalayampudur Village, Tiruppur District, forming part of Vellampalayam Detailed Development Plan No.10 of 2010 has lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter called as 'the Act').

2. Heard Mr.M.Mahaboob Athiff, learned counsel for petitioner and Mr.N.Naveen Kumar, learned Government Advocate appearing for respondents.



Writ Petition No.25243 of 2021

3. The case of the petitioner is that Vellampalayam Detailed Development Plan No.10 of 2010 was announced and it was approved by the 2nd respondent. According to the petitioner, no steps were taken to acquire the lands and it continued to be in possession and enjoyment of the petitioner. Hence, according to the petitioner, the development plan itself has lapsed in view of Section 38 of the Act. Accordingly, the petitioner has sought for a declaration to declare that the development Plan No.10 of 2010 has lapsed.

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. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. In the present case, the respondents had failed to take any steps to acquire the subject land therefore, by operation of Section 38 of the Act, the scheme has lapsed.



Writ Petition No.25243 of 2021

6. In view of the above discussion, the subject property belonging to the petitioner stands released from the detailed development plan.

7. This writ petition is disposed of accordingly. No costs.

29.11.2024

smv

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order



WEB COPY



Writ Petition No.25243 of 2021

To

- 1.The Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 015.
- 2.The Director of Town and Country Planning,
Office of the Directorate of Town and Country Planning,
Second, Third and Fourth Floor,
C&E Market Road, Koyambedu, Chennai – 600 107.
- 3.The Member Secretary,
Erode Town and County Planning Authority Office,
Chennimalai Road, Opposite to Govt. I.T.T., Erode – 638 009.



WEB COPY



Writ Petition No.25243 of 2021

C.V.KARTHIKEYAN, J.
smv

Writ Petition No.25243 of 2021

29.11.2024