



W.P.No.23019 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No. 23019 of 2024

1.A.Vellaiyangiri
2.V.Malliga

.... Petitioners

Vs

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

2. The Director
Tamilnadu Town and Country Planning,
Chennai-600 092.

3.The Joint Director/Member Secretary
District Town and Country Planning Office,
Door No.50, Ground and First Floor,
Petrol Bunk Road,
Gandhima Nagar,
Ganapathi, Coimbatore-641 004

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus directing the respondents to declare that the petitioner's land comprised in S.No.509/18, 509/19, 509/21, 509/20, 509/23, 525, 526, 527, 528, 530, Singanallur Village, Coimbatore, totally measuring about 4.96 acre is deemed to be released



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from the reservation of section 38 of Tamilnadu Town and country planning Act 1971 and consequently direct the respondent to pass appropriate orders for release of petitioner's land comprised in S.No.509/18, 509/19, 509/21, 509/20, 509/23, 525, 526, 527, 528, 530 Singanallur Village, Coimbatore, totally measuring about 4.96 acre

For Petitioner : Mr.Dhalapathy Vignesh Kumar

For Respondents : Mr.V.Manoharan
Additional Government Pleader

ORDER

This Writ Petition has been filed for a direction, directing the respondents to declare that the petitioners land comprised in S.No.509/18, 509/19, 509/21, 509/20, 509/23, 525, 526, 527, 528 & 530, Singanallur Village, Coimbatore, admeasuring 4.96 acre is deemed to be released from the reservation of Section 38 of Tamilnadu Town and Country Planning Act, 1971 (hereinafter referred to as "the Act").

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

3. The petitioners owned land comprised in S.No.509/18, 509/19, 509/21, 509/20, 509/23, 525, 526, 527, 528 & 530, Singanallur Village, Coimbatore. While being so, in the year 1990, the subject land



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was initially earmarked for forming 40 feet scheme road under the Detailed Development Plan No.41, Singanallur. However, subsequently, no action has been taken by the respondent to acquire the land for the said purpose. The said proposal was also not given effect to. While being so, the first respondent passed G.O.Ms.No.661, dated 12.10.1994, whereby master plan with all enclosures was sought to be kept open for inspection in the third respondent office. Thereafter, no action has been taken to acquire any land for the purpose of laying 40 feet road.

4. As per Section 28 of the Act, the Government has to approve the said plan and after approval, a notification has to be published under Section 30 of the Act and thereafter, declaration must be published under Section 37 of the Act within a period of three years from the date of notification. Thereafter, the Government failed to issue declaration as contemplated under Section 37 of the Act. Even after issuance of publication under Sections 26 & 27 of the Act, the land shall be deemed to be released from such reservation, allotment or designation. Thereafter, the petitioner attempted to apply for regularization of the said land in order to developing into house sites. However, the said land was part of master plan and the same was earmarked as scheme road. The



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application submitted by the petitioners was not processed by the respondent. Thereafter, the petitioner submitted another application to the third respondent which is pending.

5. The very same issue was dealt with by this Court in W.P.No.538 of 2022, by an order dated 19.01.2022, in which this Court held as follows :

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



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

6. In the present case, so far no notification was notified as per the Act and the respondents did not take any steps to acquire the subject land. Therefore, by operation of Section 38 of the Act, the scheme itself had lapsed.

7. In view of the above, the third respondent is directed to consider the application submitted by the petitioner and proceed in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition stands allowed. No costs.

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

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