



W.P.No.23025 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.23025 of 2024

Pamba Venture,
Represented by its Partner,
D.Amarnath,
Having Office at Door No. 126,
Vysiyal Street, Coimbatore – 641 001.

... Petitioner

Vs

1. The Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 015.
2. The Director,
Tamil Nadu 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



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Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to declare that the petitioner's land comprised in S. No. 142/1B, Veerakeralam Village, Perur Taluk, Coimbatore, measuring about 1 acre is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the respondent to pass appropriate orders for release of the petitioner's land comprised in S. No. 142/1B, Veerakeralam Village, Perur Taluk, Coimbatore, measuring about 1 acre.

For Petitioner : Mr. Dhalapathy Vignesh Kumar

For Respondents : Mr. V.Manoharan,
Additional Government Pleader
(for R1 to R3)

O R D E R

With consent of both sides, this Writ Petition has been taken up for disposal at the admission stage itself.

2. This Writ Petition has been filed directing the respondents to declare that the petitioner's land, comprised in S. No. 142/1B, situated at Veerakeralam Village, Perur Taluk, Coimbatore, measuring about 1 acre, is



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deemed to be released from the reservation under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act' for short), and consequently direct the respondents to pass appropriate orders for the release of the petitioner's land comprised in S. No. 142/1B, situated at Veerakeralam Village, Perur Taluk, Coimbatore, measuring about 1 acre.

3. The case of the petitioner is as follows:-

The petitioner, who is the absolute owner of the land comprised in S. No. 142/1B, Veerakeralam Village, Perur Taluk, Coimbatore, measuring about 1 acre, had purchased the same through a registered sale deed dated 22.08.2022, vide Document No. 8438 of 2022, registered before the Sub-Registrar's Office (SRO), Thondamuthur. Further, in the year 1990, the subject land was initially earmarked for forming a 60 feet scheme road under the Detailed Development Plan No.1, Veerakerallam. The scheme was prepared in the year 1990, and subsequently, no action was taken by the respondents to acquire the land for the said purpose, and further, the proposal to form the road was neither implemented nor given effect. Subsequently, the first respondent passed G.O. Ms. No. 661, dated



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12.10.1994, whereby the master plan with all enclosures was sought to be kept open for inspection in the third respondent's office. Thereafter, no action was taken by the respondents to acquire the said lands for the purpose of laying an 80 feet AA Scheme road. Hence, the petitioner submitted a representation to the third respondent for regularization of the above lands on 27.05.2024 and to release the petitioner's lands from the reservation of Section 38 of the Act, but the same has not been considered by the respondents till date. Hence, this Writ Petition.

4. The learned counsel for the petitioner submitted that the development plan has lapsed as per Section 38 of the 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 vs. The Director of Town and Country Planning***, and that 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.



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5. The learned counsel for the petitioner further contended that the similar issue has also been dealt with by this Court in W.P. No. 33802 of 2022 on 03.02.2023, wherein this Court allowed the said petition on the ground that the land had not been acquired within a period of three years, thereby, as per Section 8 of the 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 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 petitioner prayed that the present Writ Petition also be allowed.

6. Considering the above-said facts and taking note of the aforesaid decision made by this Court in W.P. No. 33802 of 2022, dated 03.02.2023, the present Writ Petition is allowed, and the respondents are directed to release the land comprised in S.No. 142/1B, situated at Veerakeralam Village, Perur Taluk, Coimbatore, measuring about 1 acre, by virtue of Section 38 of the Act, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this



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order. It is also made clear that, in the above-mentioned 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.

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Index: Yes/No
Neutral Citation: Yes/No
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