



W.P.No.28937 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM:

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

W.P.No.28937 of 2024

J.Sathish Kumaaran

...Petitioner

-Vs-

1.The Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai 600 15.

2.The Director,
Directorate of Town and Country Planning,
CMDA Tower,
E & C Market Road,
Koyambedu,
Chennai 600 107.

3.The Member Secretary,
Coimbatore Local Planning Authority,
Coimbatore Corporation Shopping Complex,
Dr.Nanjappa Road,
Coimbatore 641 018.

4.The Commissioner,
Coimbatore City Municipal Corporation,
Town Hall,
Coimbatore 641 001.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare the reservation made in respect of the properties in S.No.4, in Vellanaipatti Village, Annur Taluk, Coimbatore District, forming part of Coimbatore Master Plan to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 by appreciating the above stated facts.

For Petitioner : Mr.C.Ramaraj
For Respondents
For R1 to R3 : Mr.V.Manoharan
Additional Government Pleader

ORDER

This writ petition has been filed for declaration, declaring the reservation made in respect of the properties in S.No.4, in Vellanaipatti Village, Annur Taluk, Coimbatore District, forming part of Coimbatore Master Plan to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. According to the petitioner, his grandfather purchased the properties comprised in S.F.No.4 to an extent of 2.72 acres, S.F.No.7 to an extent of 5.72 acres situated at Vellananipatti Village, Coimbatore, under a registered sale deed, dated 27.03.2008 for a valid consideration from one K.Sundaram. Thereafter, the petitioner's grandfather executed a



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gift settlement deed dated 20.10.2008 in favour the petitioner's father, who in turn sold out the said properties in favour of the petitioner vide registered sale deed dated 06.07.2023. The said properties have been in possession and enjoyment of the petitioner and the patta for the same stands in the name of the petitioner. The Tamil Nadu Government issued a G.O.Ms.Nos.661 vide H& UD dated 12.10.1994 for a Master plan for Coimbatore Local Planning Area, wherein it was proposed to lay a 100 feet ring road and the proposed scheme road will affect the above mentioned properties of the petitioner.

3. It is the specific case of the petitioner that the above said master scheme for Coimbatore Local Planning Area was issued on 12.10.1994, but till date no steps have been taken to acquire the lands earmarked for 100 feet master plan ring road.

4. In such circumstances, the learned counsel for the petitioner by taking this Court to Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, submitted that if the land is not acquired within three years from the date of publication of scheme in the Tamil Nadu Government Gazette, the same is deemed to be released from the



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reservation, allotment or designation. Therefore, it is the submission of the learned counsel for the petitioner that the petitioner is entitled to the declaration as prayed for.

5. The learned Additional Government Pleader, who takes notice for the respondents, is not in a position to place any materials to show that the acquisition proceedings were initiated to acquire the lands of the petitioner for the purpose of development of 100 feet Master plan ring road.

6. Heard the learned counsel appearing for either side and perused the material placed before this Court.

7. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, reads 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 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



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in a regional plan, master plan, detailed development plan or new town development plan 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 as they may think proper, but such extended period shall, in no case, exceed five years.”

8. A reading of above provision make it clear that if no acquisition proceedings are initiated before expiry of five years or within extended period, if any, from date of publication of master plan in Government Gazette in respect of any land reserved for any specific purpose, such land shall be deemed to be released from such reservation. In the case on hand no material in placed before this Court to show acquisition proceedings initiated within time prescribed under said provision.

9. In such circumstances, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner is entitled to



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declaration as prayed for and accordingly this Writ Petition is allowed.

There shall be no orders as to costs.

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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

rts



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