



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.30627 of 2023

1.K.Thangavelusamy
2.T.Mohankumar

...

Petitioners

versus

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

2.The Director of Town & 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 Deputy Director,
Directorate of Town and Country Planning,
Corporation Commercial Complex,
2nd Floor, Dr.Nanjappa Road,
Coimbatore - 641 018.

4.The Member Secretary,
Coimbatore Local Planning Authority,
First Floor, Corporation Shopping Complex,
Raju Naidu Street, Sivananda Colony,
Coimbatore - 641 012.

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Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring the reservation made in respect of the properties in old S.No.398/4, New S.No.398/4A1A and S.No.398/4A1, New S.No.398/4A1C and in Saravanampatti Village, Coimbatore Taluk forming part of Saravanampatti Detailed Development Plan No.2 to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

For Petitioners : Mr.N.S.Balaji
for Mr.M.Guruprasad

For Respondent Nos.1 to 3 : Mrs.C.Meera Arumugam
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of declaration, declaring the reservation made in respect of the properties in old S.No.398/4, New S.No.398/4A1A and S.No.398/4A1, New S.No.398/4A1C and in Saravanampatti Village, Coimbatore Taluk, forming part of Saravanampatti Detailed Development Plan No.2 to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. The case of the petitioners is that the properties in old S.No.398/4, New S.No.398/4A1A and S.No.398/4A1, New S.No.398/4A1C



situated at Saravanampatti Village, Coimbatore Taluk originally belong to the petitioners' predecessor. While so, a proposal was established in the name of 'Detailed Development Plan' for Saravanampatti Village. The Government has notified the same through Gazette notification as Saravanampatti Detailed Development Plan No.2. On such notification, the Government had notified/reserved the lands in old S.No.398/4, New S.No.398/4A1A and S.No.398/4A1, New S.No.398/4A1C in Saravanampatti Village, Coimbatore Taluk. Once the Detailed Government Plan comes into operation, the Government has to acquire the land under Section 36 of the Tamil Nadu Town and Country Planning Act and appropriate compensation has to be provided under Section 39 of the Tamil Nadu Town and Country Planning Act, within the period of three years. Even after lapse of ten years, till today no acquisition has been made. Therefore, the present case falls under Section 38 of the Tamil Nadu Town and Country Planning Act. Hence, the lands in old S.No.398/4, New S.No.398/4A1A and S.No.398/4A1, New S.No.398/4A1C are deemed to be released.



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3. The learned counsel appearing for the petitioners has relied on a decision of this Court in W.P.(MD).No.10659 of 2012, dated 10.12.2012.

The relevant portion of the order reads as follows:-

“8. In this regard, useful reference could be made to a decision reported in (2008) 2 MLJ 184 (K.S.Kamakshi Chetty and others vs. Commissioner, Aruppukottai Municipality, Aruppukottai and another), wherein it has been held as follows:-

“9. On the facts and circumstances of the present case, the petitioners have clearly stated in the affidavit, that even under the old Act VII of 1920, no steps were taken for the purpose of completing the acquisition within three years and the same has not been denied in the counter affidavit filed by the first respondent. Even assuming that the said Scheme has been taken over under the Act 35 of 1972, even from the date of coming into effect of the Act within the period stipulated under Section 38, no steps have been taken by the respondents for acquiring the property for the purpose of “open space” stated to have been reserved under the North-East Extension Town Planning Scheme Part II, Aruppukottai sanctioned under G.O.Ms.No.474 LA dated 02.03.1969.”

9. Therefore, the acquisition cannot be made at this stage, since the period of three years as contemplated under



the said provision is already over. Accordingly, this Writ Petition is allowed. No costs.”

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4. Following the same, this Court is of the view that the acquisition cannot be made at this stage, since the period of three years as contemplated under the said provision is already over. Accordingly, this Writ Petition is allowed and the respondents are directed to release the land in old S.No.398/4, New S.No.398/4A1A and S.No.398/4A1, New S.No.398/4A1C situated at Saravanampatti Village, Coimbatore Taluk, forming part of Saravanampatti Detailed Development Plan No.2, by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs. If any road has been found and laid and in use of public that part cannot be released.

08.04.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The Secretary,
Housing and Urban Development Department,
Fort St.George, Chennai - 600 015.
- 2.The Director of Town & Country Planning,
Office of the Directorate of Town and Country Planning,
Second, Third and Fourth Floor,
C&E Market Road,
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V.BHAVANI SUBBAROYAN, J.

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