



WP No.30666 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P No.30666 of 2024

A.Anitharani

... Petitioner

-Vs-

1.The Director of Town & Country Planning,
Office of Directorate of Town & Country Planning,
Second, Third and Fourth Floors,
E & C Market Road,
Koyambedu, Chennai – 600 107.

2.The Member Secretary,
Tiruppur Local Planning Authority,
1st Floor, Kumaran Commercial Complex,
Tiruppur – 641 601.

3.The Commissioner
Tiruppur Municipal Corporation,
Tiruppur.

... Respondents



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PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Declaration, declaring that the property comprised in Old S.No.311, New S.No.311/9 and Old S.No.307/2, New S.No.307/2A together measuring to an extent of acre 4.81 cents situated at Nallur Village, Tiruppur South Taluk, Tiruppur District (property) forming part of MAP No.4 & 5, DDP (CR) / DTCP No.27/2012 vide proceeding No.27071/08/DP2 dated 02.12.2010 for Tiruppur Local Planning Area – Nallur Detailed Development Plan No.3 which was approved by the Director of Town and Country Planning the first respondent for BB50 Feet Road and the same has been published in the Tamil Nadu Government Gazette on 09.02.2011 in Part VI Section I by the 1st respondent herein, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and the decisions of this Court in W.P.(MD) No.8515 of 2021 dated 25.06.2021 and in W.P.No.106 of 2022 dated 07.01.2022 and in W.P.No.538 of 2022 dated 19.01.2022 and in W.P.No.22384 of 2023 dated 22.08.2023.

For Petitioner	:	Mr.P.Tamilmani
For R1 & R2	:	Mr.V.Nanmaran, Additional Government Pleader.
For R3	:	Mr.Abishek Murthy



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ORDER

This writ petition has been filed in a nature of declaration, to declare that the property comprised in Old S.No.311, New S.No.311/9 and Old S.No.307/2, New S.No.307/2A together measuring to an extent of acre 4.81 cents situated at Nallur Village, Tiruppur South Taluk, Tiruppur District (property) forming part of MAP No.4 & 5, DDP (CR) / DTCP No.27/2012 vide proceeding No.27071/08/DP2 dated 02.12.2010 for Tiruppur Local Planning Area – Nallur Detailed Development Plan No.3 which was approved by the Director of Town and Country Planning the first respondent for BB50 Feet Road and the same has been published in the Tamil Nadu Government Gazette on 09.02.2011 in Part VI Section I by the 1st respondent herein, to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974).

2.In the affidavit filed in support of the writ petition, it had been contended that the 1st respondent had approved a plan for BB50 Feet Road, which is the subject matter of this writ petition and B1-B1 50 Feet Road.



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The petitioner had filed a writ petition in W.P.No.22384 of 2023 and in the relief column had mentioned only B1-B1 50 Feet Road and had omitted to mention BB50 Feet Road. A learned Single Judge who had examined the issues raised which are exactly the same now had held as follows:

“6. Though the matter came up before this Court on 28.07.2023, 11.08.2023, 18.08.2023 and till date, no counter have been filed by the respondents. However, on instructions, the learned counsel for the respondent only submits that a master plan was already prepared and it is pending in draft consent stage. As far as the issue raised by the learned counsel for the petitioner is concerned, the lands were included in the area reserved for B1-B1 50 feet road in the detailed development plan approved as early as on 09.02.2011. Therefore, now 10 years have gone from the date of approval.

Section 38 of 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 section 27-

(a) no declaration as provided in sub-section (2) of section 37 is made in respect of any land



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reserved, allotted or designated for any purpose specified in a Regional Plan, Master Plan, [Detailed Development Plan, New Town Development Plan or a Land Pooling Area Development Scheme] 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 time as they may think proper, but such extended period shall, in no case, exceed five years.

7. A perusal of the above said provision would make it clear that if no acquisition proceedings is initiated in respect of any land reserved, allotted or designated for any purpose specified in the detailed development plan, such land will get automatically released from such reservation or allotment or designation.

8. A proviso to Section 38 empowers Government to extend the time limit by another five years. In the case on hand, no such extension has been granted by the Government. Even assuming such extension is given, that period would have been over as 10 years have already lapsed from the date of approval



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of the detailed development plan. Therefore, there is no difficulty in coming to the conclusion that the lands of the petitioner reserved for specific road in the detailed development plan got released by operation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971.

9. In view of the discussions made earlier, the petitioner is entitled to declaration as prayed for. Accordingly, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

10. It is needless to say that allowing of this writ petition will not prevent the respondents from preparing or approving new master plan or new detailed development plan in accordance with law.”

3.In order to overcome that particular lacuna in the earlier writ petition, the present writ petition has been filed by including BB50 Feet Road.

4.A counter had been filed on behalf of the respondents and in paragraph No.9, it had been stated that the land is in the proposal for laying



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of Scheme Road and that the respondents can acquire the land for laying the Scheme Road. It had however been admitted that there is no acquisition taken place for laying the Scheme Road. If there is no acquisition, then the respondents cannot take over the land. It is not the private property of the respondents. It had been very clearly observed in the earlier writ petition placing reliance on the Section 38 of Tamil Nadu Town and Country Planning Act, 1971 that the scheme itself had lapsed owing to efflux of time. However, the learned Single Judge had also granted permission for the respondents from preparing or approving a new master plan or new detailed development plan in accordance with law. The same directions also ensure in this present writ petition.

5. With the above observations, this writ petition stands allowed. No costs. But however, allowing of this writ petition will not prevail the respondents from preparing or approving new master plan or new detailed development plan in accordance with law.

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Internet: Yes/No
Neutral Citation : Yes/No

C.V.KARTHIKEYAN, J.

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To,

1.The Director of Town & Country Planning,
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Second, Third and Fourth Floors,
E & C Market Road,
Koyambedu, Chennai – 600 107.

2.The Member Secretary,
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