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W.P.No.32868 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.32868 of 2024

and WMP.No.35693 of 2024

1. Jayantilal G Bafna
2. Kamalesh C Bafna
3. Ashok Kumar

... Petitioners

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
Coimbatore Local Planning Authority,
Office of the Coimbatore Local Planning Authority
Coimbatore.
3. The Joint Director of Town & Country Planning,
Coimbatore Local Planning Authority
O/o.The Coimbatore District Town and Country Planning,
Coimbatore.
4. The Commissioner,
Coimbatore Municipal Corporation



Coimbatore.

... 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 that the property comprised in S.No.494/1, 492/2, 493/2C and 494/2 together measuring to an extent of acre 8.43 ½ acres situated at Veerakeralam Village, Perur Taluk, Coimbatore District (property) forming part of MAP No.2, DDP / R (CN) No./89 (Tentative MAP) MAP No.2/DDP/R (CN) DTCP No.3/91 for Coimbatore Local Planning Area Veerakeralam Detailed Development Plan No.6 which was approved by the Deputy Director of Town and Country Planning, now redesigned as the Joint Director, Town and Country Planning – the Third respondent herein for a B3 – B3 – 60 feet road 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.538/2022 dated 19.01.2022 and in W.P.No.22384/2023 dated 22.08.2023.

For Petitioners .. Mr.P.Tamilmani

For Respondents .. Mr.T.Chandrasekaran
Spl. Government Pleader for R1

Mr.V.Nanmaran
Addl.Government Pleader
for R2 to R4



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ORDER

This writ petition has been filed for a direction to declare the reservation made in respect of the properties in S.No.494//1A, 492/2, 493/2C and 494/2 together measuring to an extent of acre 8.43 ½ acres situated at Veerakeralam Village, Perur Taluk, Coimbatore District (property) forming part of MAP No.2, DDP / R(CN) No./89 (Tentative MAP) MAP No.2/DDP/R((CN)DTCP No.3/91 for Coimbatore Local Planning Area Veerakeralam Detailed Development Plan No.6 has lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter called as 'the Act').

2. Heard Mr.P.Tamil Mani, learned counsel for petitioners, Mr.T.Chandrasekaran, learned Special Government Pleader for first respondent and Mr.V.Nanmaran, learned Additional Government Pleader for second and third respondents.



3. The case of the petitioners are that Veerakeralam Detailed Development Plan No.6 was announced and it was approved by the 2nd respondent. According to the petitioners, no steps were taken to acquire the lands and it continued to be in possession and enjoyment of the petitioners. Hence, according to the petitioners, the development plan itself has lapsed in view of Section 38 of the Act. Accordingly, the petitioners have sought for a declaration to declare that the development Plan No.6 has lapsed.

4. The main issue that has been urged before this Court is that the detailed development plan has lapsed under Section 38 of the Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.

5. 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. In the present case, the respondents had failed to take any steps to acquire the subject land therefore, by operation of Section 38 of the Act, the scheme has lapsed.



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6. In view of the above discussion, the subject property belonging to the petitioner stands released from the detailed development plan.

7. This writ petition is disposed of accordingly. No costs.

16.12.2024

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Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order



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C.V.KARTHIKEYAN, J.

dpq

To

1. The Director of Town & Country Planning
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Second, Third and Fourth floors,
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Koyambedu, Chennai 600 107.
2. The Member Secretary
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