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W.P.No.34811 of 2023
and W.M.P.No.34817 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.34811 of 2023
and W.M.P.No.34817 of 2023

1.S.Vivekanandan
2.S.Mythili

...

Petitioners

versus

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,
Tirupur Local Planning Authority,
1st Floor, Kumaran Commercial Complex,
Tiruppur - 641 601.

3.The Commissioner,
Tiruppur Municipal Corporation,
Tiruppur.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring the properties totally to an extent of 11.58 acres as per Town Survey Land Register 11.61³/₄ acres comprised in Old S.Nos.10/2, 11, 12, 38, 39, 40, 41 and 247 and old Ward



No.G, Old Block No.3, Old T.S.No.7/1, 2P, 9/1, 2, 3, 4, 5, 6, presently New Ward-E Block 21, New T.S.Nos.34/1, 34/2 and 34/3 of Tiruppur Town, situated at Tiruppur Corporation, Tiruppur South Taluk, Tiruppur District (property) forming part of MAP No.5, DDP (V)/DTCP No.24/2012 Vide proceeding Roc.No.15124/2012 DDP2 dated 09.11.2012 which was approved by the Director of Town and Country Planning, the first respondent for forming of the B-B 60' Road, E2-E2 30' Feet Road, D9-D9 40' Feet Road, D10-D10 40' Feet Road, D11-D11 30' Feet Road for public purpose-II 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, W.P.No.106/2022 dated 07.01.2022, W.P.(MD)No.424/2022 dated 14.03.2022, W.P.No.538/2022 dated 19.01.2022, W.P.Nos.4948, 4951 & 4406/2022 dated 30.03.2022, W.P.No.30169/2022 dated 25.01.2023, W.P.7862/2023 dated 29.03.2023, W.P.No.11410 of 2023 dated 13.04.2023, W.P.No.12484/2023 dated 24.04.2023, W.P.No.17284/2023 dated 12.06.2023, W.P.No.19532/2023 dated 30.06.2023 and W.P.23851/2023 dated 22.08.2023.

For Petitioners	:	M/s.P.Tamilmani
For Respondent Nos.1 & 2	:	Mr.A.M.Ayyadurai Government Advocate
For Respondent No.3	:	Mr.Abishek Murthy



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ORDER

The Writ Petition is filed praying for issuance of a Writ of declaration, declaring the properties comprised in Old S.Nos.10/2, 11, 12, 38, 39, 40, 41 and 247 and old Ward No.G, Old Block No.3, Old T.S.No.7/1, 2P, 9/1, 2, 3, 4, 5, 6, presently New Ward-E Block 21, New T.S.Nos.34/1, 34/2 and 34/3, situated at Tiruppur Corporation, Tiruppur South Taluk, Tiruppur District, earmarked as B-B 60' Road, E2-E2 30' Feet Road, D9-D9 40' Feet Road, D10-D10 40' Feet Road, D11-D11 30' Feet Road for public purpose-II in the Tiruppur Local Planning Area Detailed Development Plan No.18, by virtue 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.Nos.10/2, 11, 12, 38, 39, 40, 41 and 247 and old Ward No.G, Old Block No.3, Old T.S.No.7/1, 2P, 9/1, 2, 3, 4, 5, 6, presently New Ward-E Block 21, New T.S.Nos.34/1, 34/2 and 34/3, situated at Tiruppur Corporation, Tiruppur South Taluk, Tiruppur District, originally belong to the petitioners' predecessor. While so, a proposal was established in the name of 'Detailed Development Plan' for Tiruppur Town. The Government has notified the



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same through Gazette notification as Tirupur Local Planning Area Detailed Development Plan No.18. On such notification, the Government had notified/reserved the lands in Old S.Nos.10/2, 11, 12, 38, 39, 40, 41 and 247 and old Ward No.G, Old Block No.3, Old T.S.No.7/1, 2P, 9/1, 2, 3, 4, 5, 6, presently New Ward-E Block 21, New T.S.Nos.34/1, 34/2 and 34/3, situated at Tiruppur Corporation, Tiruppur South Taluk, Tiruppur District. 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.Nos.10/2, 11, 12, 38, 39, 40, 41 and 247 and old Ward No.G, Old Block No.3, Old T.S.No.7/1, 2P, 9/1, 2, 3, 4, 5, 6, presently New Ward-E Block 21, New T.S.Nos.34/1, 34/2 and 34/3, are deemed to be released.

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:-



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“8. In this regard, useful reference could 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 lands in Old S.Nos.10/2, 11, 12, 38, 39, 40, 41 and 247 and old Ward No.G, Old Block No.3, Old T.S.No.7/1, 2P, 9/1, 2, 3, 4, 5, 6, presently New Ward-E Block 21, New T.S.Nos.34/1, 34/2 and 34/3, situated at Tiruppur Corporation, Tiruppur South Taluk, Tiruppur District, forming part of Tiruppur Local Planning Area Detailed Development Plan No.18, 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. It is also made clear if any public road has been found and laid, the same shall part with the local body of Government and shall not be released. No costs. Consequently, connected Miscellaneous Petition is closed.

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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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V.BHAVANI SUBBAROYAN, J.

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