



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM

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

W.P.No.34625 of 2024

1.Mr.R.Ganesan

2.Mr.R.Ananthasamy

.. Petitioners

Vs.

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

2.The Director,
Tamil Nadu Town and Country Planning,
Chennai 600 002.

3.The Member Secretary,
Coimbatore Local Planning Authority,
Door No.50, FCI Road,
Gandhima Nagar,
Ganapathy, Coimbatore 641 004.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to declare that the petitioners land comprised in S.F. No.208/2A, 209 and 210/2, Veerakerallam Village, Perur Taluk, Coimbatore West Zone, Coimbatore totally measuring about



3.10 acre is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the respondent to pass appropriate orders for release of petitioners land comprised in S.F.No.208/2A, 209 and 210/2 Veerakerallam Village, Perur Taluk, Coimabtoe West Zone, Coimbatore Totally measuring about 3.10 acre and pass appropriate orders.

For Petitioner .. Mr.Dhalapathy Vignesh Kumar
For Respondents .. Mr.S.J.Mohamed Sathik
Government Advocate

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondents to declare that the petitioners land comprised in S.F. No.208/2A, 209 and 210/2, Veerakerallam Village, Perur Taluk, Coimbatore West Zone, Coimbatore totally measuring about 3.10 acre is deemed to be released from the reservation of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the respondent to pass appropriate orders for release of petitioners land comprised in S.F.No.208/2A, 209 and 210/2 Veerakerallam Village, Perur Taluk, Coimabtoe West Zone, Coimbatore Totally measuring about 3.10 acre.



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2. Heard Mr.Dhalapathy Vignesh Kumar, learned Counsel for the petitioners, Mr.S.J.Mohamed Sathik, learned Government Advocate for the respondents.

3.The learned Counsel for the petitioners stated that under Section 38 of the Act, the land should be released if within three years from the date of publication of the notice in the Tamil Nadu Government Gazette, the land had not been acquired.

4.In this connection, the learned Counsel for the petitioners had placed reliance on an earlier order in ***W.P.(MD)No.9118 of 2009 [A.George (died) and another vs The Member Secretary, Thanjavur Local Planning Authority and others)***, wherein, this Court had examined the very same issue and had finally stated as follows.

“12.Likewise, there is no dispute or disagreement that there is no acquisition of aforesaid land that was reserved in the instant case.

13.Therefore, in the considered view of this Court, it follows as an indisputable sequitur that the land reserved in the instant



case ie., case on hand also stands released by operation of Section 38 of T.N.T.C.P.A Act.

14.The further sequitur is that the impugned order made by the third respondent has to be set aside.

15.In the light of narrative thus far, instant writ petition is allowed. There shall be no costs.”

5.It is also stated that another learned Single Judge of this Court in ***W.P.(MD)Nos.29118-29120 of 2022, [Rahman Beevi vs the Director, Directorate of Town and Country Planning and another]***, dealt with Karanthai Detailed Development Plan Part-VI and by an order, dated 20.01.2023 had stated as follows:

“2.The petition mentioned land was reserved for road purposes in the detailed development plan in the year 1988. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 is follows:-

“38. Release of land.- If within three 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 published in respect of any land reserved, allotted or designated for any purpose specified 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.”

3. In this case, within three years from the date of publication of the detailed development plan, the land was not acquired. Since consequential steps were not taken, it is declared that the reservation made in respect of the petition mentioned land is deemed to have lapsed. It stands released from such reservation in view of the aforesaid statutory provision. The respondents are directed to make the necessary changes in the revenue record.

4. These writ petitions are allowed accordingly. No costs.”

6. The reasons therein enure to the petitioners also.

7. It is also stated by the learned Government Advocate that the land acquisition proceedings had not moved forward at all and that it is an admitted fact that three year period has been lapsed.



8. Accordingly, since the land had not been acquired within a period of three years from the date of publication of the detailed development plan and since consequential steps have not been taken, I hold that the land stands released from such reservation. The respondents are directed to make necessary changes in the revenue records.

9. The Writ Petition stands allowed. No order as to costs.

02.12.2024
(2/2)

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
ssr

To

1. The Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai 600 015.
2. The Director,
Tamil Nadu Town and Country Planning,
Chennai 600 002.



3. The Member Secretary,
Coimbatore Local Planning Authority,
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