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W.P.No.33843 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.33843 of 2023

N.Sundrajan

... Petitioner

-Vs-

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

2. The Director Of Town And Country Planning,
Office Of The Directorate Of Town
And Country Planning,
Second, Third And Fourth Floor,
C And E Market Road,
Koyambedu, Chennai-600 107.

3. The Commissioner,
City Planning Commissioner's Office,
807, Anna Salai, Chennai-2.

4. The Member Secretary,
Tirupur Local Planning Authority,
Opposite To TKT Bunk,
377, Kamaraj Road, Tiruppur-641 604.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Declaration, to declare the reservation made in respect of the properties in S.No.464/2B and 464/5B in Nallur Village, Tiruppur South Taluk, Tiruppur District forming part of Nallur Detailed Development



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Plan No.13 to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 by appreciating the above stated facts.

For Petitioner : Mr.K.Sudhakar
For R1 to R4 : Mr.V.Manoharan
Additional Government Pleader

ORDER

This writ petition has been filed for declaration declaring the reservation made in respect of the properties in S.No.464/2B and 464/5B in Nallur Village, Tiruppur South Taluk, Tiruppur District forming part of Nallur Detailed Development Plan No.13 to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The property comprised in S.No.464/2B and 464/5B situated at Nallur Village, Tiruppur South Taluk, Tiruppur District to an extent of 32333 sq.ft was proposed to acquire for forming of scheme road as per detailed development plan, 2012. The said property was purchased by the petitioner by the registered sale deed dated 11.06.2008 registered vide Document No.2533 of 2008. While being so, AA 100 ft, B1B1 60 ft scheme road has been announced by the Tamil Nadu Government reserving the subject property and there was proposal



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approved by the third respondent under Section 29 of the Tamil Nadu Town and Country Planning Act, 1971 and numbered as Map No.3 under Nallur Detailed Development Plan No.13 in the year 2012 by the Government Gazette notification dated 29.08.2012. However, it was not implemented by acquiring the said land. As per Section 37 of the Tamil Nadu Town and Country Planning Act, 1971, the concerned authority ought to make declaration to the effect that the land specified in the application of proposed scheme road has to be reserved for public purpose. However, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, if no declaration for acquisition has been made within a period of three years from the date of notification, the said lands which are reserved for such public purpose are deemed to be released from the reservation, allotment or designation.

4. It is relevant to extract the provision under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 as 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



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(b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation.”

5. In the case on hand, no consequential steps for acquiring the subject land was taken within a period of three years. Therefore, the above said provision is applicable to the case on hand.

6. In view of the above, the reservation made in respect of the properties in S.No.464/2B and 464/5B in Nallur Village, Tiruppur South Taluk, Tiruppur District forming part of Nallur Detailed Development Plan No.13 is lapsed. Accordingly, this writ petition stands allowed. No costs.

04.09.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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