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W.P.No.34119 of 2023
and W.M.P.No.33991 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.34119 of 2023
and W.M.P.No.33991 of 2023

1.O.P.Vetrivel Maheshkumar
2.O.P.Karthikeya Arulkumar
3.V.Padmavathi

...

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,
Tiruppur 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 property comprised in Old S.Nos.20 & 21, Old Ward No-G, Old Block No.1 Old T.S.Nos.5/2B1 Apt & 5/2B2 and presently New Ward No.E, New Block No.5, New



T.S.Nos.3pt & 4 measuring to an extent of Acres 3.29 cents, situated at Tirupur Town, Tirupur South Taluk, Tiruppur District (property) forming part of MAP No.5, DDP (V)/DTCP No.24/2012 vide proceeding in Roc.No.15124/2012 DDP2 dated 09.11.2012 for Tirupur Local Planning Area Detailed Development Plan No.18 which was approved by the first respondent for the purpose of forming the D2-D2 40' Feet Road, D5-D5 40' Feet Road for the public purpose and the same has been published in the Tamil Nadu Government Gazette on 12.12.2012 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 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

ORDER



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The Writ Petition is filed praying for issuance of a Writ of declaration, declaring the properties comprised in Old S.Nos.20 & 21, Old Ward No-G, Old Block No.1 Old T.S.Nos.5/2B1 Apt & 5/2B2 and presently New Ward No.E, New Block No.5, New T.S.Nos.3pt & 4 measuring to an extent of Acres 3.29 cents, situated at Tirupur Town, Tirupur South Taluk, Tiruppur District, earmarked as D2-D2 40' Feet Road, D5-D5 40' Feet Road for the public purpose in the Tirupur 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.20 & 21, Old Ward No-G, Old Block No.1 Old T.S.Nos.5/2B1 Apt & 5/2B2 and presently New Ward No.E, New Block No.5, New T.S.Nos.3pt & 4 measuring to an extent of Acres 3.29 cents, situated at Tirupur Town, Tirupur South Taluk, Tiruppur District, originally belong to the petitioners' predecessor. While so, a proposal was established in the name of 'Detailed Development Plan' for Tirupur Town. The Government has notified the same through Gazette notification as Tirupur Local Planning Area Detailed Development Plan No.18. On such notification, the Government had



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notified/reserved the lands in Old S.Nos.20 & 21, Old Ward No-G, Old Block No.1 Old T.S.Nos.5/2B1 Apt & 5/2B2 and presently New Ward No.E, New Block No.5, New T.S.Nos.3pt & 4 measuring to an extent of Acres 3.29 cents, situated at Tirupur Town, Tirupur 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.20 & 21, Old Ward No-G, Old Block No.1 Old T.S.Nos.5/2B1 Apt & 5/2B2 and presently New Ward No.E, New Block No.5, New T.S.Nos.3pt & 4 measuring to an extent of Acres 3.29 cents, 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:-

“8. In this regard, useful reference could made to a decision reported in (2008) 2 MLJ 184 (K.S.Kamakshi Chetty



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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.”

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 / five years as contemplated under the said provision is already over. Accordingly, this Writ Petition is allowed and the respondents are directed to release the



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lands in Old S.Nos.20 & 21, Old Ward No-G, Old Block No.1 Old T.S.Nos.5/2B1 Apt & 5/2B2 and presently New Ward No.E, New Block No.5, New T.S.Nos.3pt & 4 measuring to an extent of Acres 3.29 cents, situated at Tirupur Town, Tirupur South Taluk, Tiruppur District, forming part of Tirupur 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. No costs. Consequently, connected Miscellaneous Petition is closed.

08.04.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

1.The Director of Town & Country Planning,
Office of Directorate of Town & Country Planning,
Second, Third and Fourth Floors,

6/8



E & C Market Road,
Koyambedu, Chennai - 600 107.

2. The Member Secretary,
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V.BHAVANI SUBBAROYAN, J.

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