



W.P.(MD)No.3210 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED 14.02.2024

CORAM

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P(MD)No.3210 of 2024

- 1.Hari Anandaraj
- 2.Anbu Solairaj
- 3.Selvakumar
- 4.Senthil Kumar

...Petitioners

/Vs./

- 1.The Director,
Directorate of Town and Country Planning,
2nd, 3rd & 4th Floor, C & E Market Road,
Koyambedu,
Chennai – 600 107.
- 2.The Member Secretary,
Madurai Local Planning Authority,
Sector – 6, Aanaiyur – Mudakkathan Main Road,
Koodalpuhur,
Madurai – 625 017.

...Respondents

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents no.1 and 2 to release the Petitioners' Land measuring of 1 Acre 45 Cents situated in Survey No.117/3, 117/4, 117/5, 117/6, 117/7, 117/8, 117/9, 117/10, 117/11, 117/15, 118/2, 118/3, 118/4, 118/15 in Thiruppalai Village, Madurai North Taluk, Madurai District treating the Thiruppalai Detailed Development Plan



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Part-II of Madurai Local Planning Area as lapsed under Section 38 of Tamil Nadu Town Country Planning Act 1971.

For Petitioners : Mr.R.Karunanidhi

For Respondents : Mr.SRA Ramachandran

Additional Government Pleader

ORDER

This writ petition has been filed for issuance of writ of Mandamus directing the respondents 1 and 2 to release the petitioners' land measuring of 1 Acre 45 Cents situated in Survey No.117/3, 117/4, 117/5, 117/6, 117/7, 117/8, 117/9, 117/10, 117/11, 117/15, 118/2, 118/3, 118/4, 118/15 in Thiruppalai Village, Madurai North Taluk, Madurai District treating the Thiruppalai Detailed Development Plan Part-II of Madurai Local Planning Area as lapsed under Section 38 of Tamil Nadu Town Country Planning Act 1971.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



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3. According to the petitioners, they are the owners of the aforesaid land by way of various sale deeds, bearing Document No.3257 of 2006 and patta has also been issued in their favour.

4. While matter stood thus, the respondents had earmarked several properties, including the property belonging to the petitioners for "Thiruppali Detailed Development Plan Part-II" and the plan was approved by the first respondent, vide proceedings in Roc.No.5233/99/DP2, dated 10.10.2000, in terms of Section 29 of the Tamil Nadu Town and Country Planning Act, 1971 and the plan was also published in the Gazette in the year 2000 under Section 31 of the Tamil Nadu Town and Country Planning Act, 1971. Thereafter, no steps have been taken to acquire the land nor any notice was issued to the petitioners for acquisition of the same. According to the petitioners, even after lapse of 23 years, there was no action forthcoming from the respondents for acquiring the land for the purpose of the "Thiruppali Detailed Development Plan Part-II" and the land remains in the possession of the petitioners as on date.



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5. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971

provides for release of property in favour of its owner in the event of the property not been acquired within a period of 3 years. It is admitted position that in spite of publication of the approval of the "Thiruppali Detailed Development Plan Part-II" in the official gazette in the year 2000, till date, the land has not been acquired and therefore, it is deemed to have been released to the owners on expiry of 3 years in the light of Section 38 of said Act. Since the release of the property has not been effected, the petitioners are before this Court, seeking issuance of a Writ of Mandamus.

6. According to the learned counsel for the petitioners, the entire issue raised by the writ petitioners is squarely covered by the order passed by the Division Bench of this Court reported in **(2011) 8 MLJ 437** in the matter of **Commissioner, Aruppukottai Municipality v.K.S.Kamakshi Chetty and others**. According to the order passed by the Division Bench, when no steps have been taken for completing the acquisition within 3 years period and when the property earmarked for the purpose has not been utilized as per the notification, the property would be deemed to have released from reservation, allotment or designation as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.



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7. The learned counsel for the petitioners has also relied upon the order passed by this Court in **W.P.(MD)No.4753 of 2017**, dated **28.03.2017** [**P.Babu vs. The Director and another**], in which, a direction was issued in identical set of facts and circumstances, directing to release of the land belonging to the petitioners therein from "Thiruppali Detailed Development Plan Part-II", based on the direction issued by the Division Bench of this Court. Against the said order, the respondents preferred a Writ Appeal in W.A.(MD)No.447 of 2020 before the Division Bench of this Court. The Division Bench, vide its judgment dated 02.06.2020, dismissed the writ appeal and upheld the order of the learned Single Judge. Since the present writ petition directly covered by the aforesaid decisions and the directions issued by this Court squarely cover the claim of the petitioners herein, there is no impediment to allow the Writ Petition as prayed for.

8. In the light of the aforesaid facts and circumstances, the Writ Petition is allowed. The respondents are directed to release the petitioners' land measuring of 1 Acre 45 Cents situated in Survey No.117/3, 117/4, 117/5, 117/6, 117/7, 117/8, 117/9, 117/10, 117/11, 117/15, 118/2, 118/3, 118/4, 118/15 in Thiruppalai Village, Madurai North Taluk, Madurai District from "Thiruppali



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Detailed Development Plan Part-II” by passing a specific order within a period of eight weeks from the date of receipt of copy of this order and communicate the same to the petitioners. No costs.

14.02.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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(2/2)



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- 1.The Director,
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2nd, 3rd & 4th Floor, C & E Market Road,
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- 2.The Member Secretary,
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V.BHAVANI SUBBAROYAN, J.

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Order made in
W.P(MD)No.3210 of 2024
(2/2)

Dated:
14.02.2024