



W.P(MD)No.20374 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.20374 of 2024

V.Ramanathan

... Petitioner

Vs.

1.The Director of Town and Country Planning,
2, 3 and 4th Floor, B, CMDA Office Campus,
E & C Market Road, Koyambedu,
Chennai-107.

2.The Deputy Director,
District Urban Development Office,
Office of District Collector,
Madurai District.

3.The Commissioner,
Madurai Corporation, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that the reservation made in respect of the petitioner's land to an extent of 1 Acre 85 cents at S.No. 67/1b situated at Ayanpapakudi Village, Madurai North Taluk, Madurai District as “ proposed 60 feet road” in the Madurai local planning area Ayanpappakudi detailed development plan No.1” bearing Map No.3 DDP(MR) DTCP No. 05/2009 published on .03.2009 is deemed to be lapsed and released from the reservation in the light of Section 38 of The Tamil Nadu Town and Country Planning Act, 1971 (TN Act 1974).



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For Petitioner : Mr.M.Divakaran
For R1 & R2 : Mr.D.Gandhiraj,
Special Government Pleader
For R3 : Mr.P.Anbunithi

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.Mr.D.Gandhiraj, learned Special Government Pleader takes notice for the respondents 1 and 2 and Mr.P.Anbunithi, learned counsel takes notice for the 3rd respondent.

3.It is the case of the petitioner that the petitioner's mother was originally the owner of the land in Survey No.67/1 to an extent of 1 Acre 85 Cents situated at Ayanapapakudi Village, Madurai North Taluk, Madurai District. She had executed a settlement deed in favour of the petitioner on 27.05.1997. Thereafter, in the year 2009, the petitioner divided the land in question as plots and sold out some plots to the third parties and remaining portion of the land is still in possession of the petitioner. In such circumstances, the respondents published the “Madurai Local Planning Area



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Ayanpappakudi detailed development plan No.1” bearing Map No.3 DDP(MR)DTCP No.05/2009, dated .03.2009. Pursuant to the same, the petitioner's land was classified as 'proposed 60 feet road'. Though the said plan was published in the year 2009, till now, the road has not been developed and no declaration has been made under Section 37(2) of Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act') within three years from the date of such notice. Therefore, the land reservation is lapsed as per Section 38 of the Act. Hence, he filed this Writ Petition with the aforesaid prayer.

4.The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the petitioner has to make an application to release his land and the same would be considered on merits within the stipulated time to be fixed by this Court.

5.It is relevant to extract Sections 37 and 38 of the Act for easy reference:-

“ 37.Power to purchase or acquire lands specified in the development plan.-

(1)Where after the publication of the notice in the Tamil Nadu Government Gazette of preparation of a regional



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plan, master plan, detailed development plan or a new town development plan, as the case may be, any land is required, reserved or designated in such plan, the appropriate planning authority may, either enter into agreement with any person for the acquisition from him by purchase of any land which may be acquired under section 36 or make an application to the Government for acquiring such land under the Land Acquisition Act, 1894 (Central Act I of 1984):

Provided that if the value of such land exceeds fifty thousand rupees the appropriate planning authority shall not enter into such agreement without the previous approval of the Government.

(2)On receipt of an application made under sub-section (1), if the Government are satisfied that the land specified in the application is needed for the public purpose specified therein, they may make a declaration to that effect in the Tamil Nadu Government Gazette, in the manner provided in section 6 of the Land Acquisition Act, 1894 (Central Act I of 1894), in respect of the said land. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section 6 of the said Act:

Provided that no such declaration in respect of any particular land covered by a notice under section 26 or section 27 shall be made after the expiry of three years from the date of such notice.

(3)On the publication of such declaration, the



Collector of the district within whose jurisdiction the land is situate, shall proceed to take order for the acquisition of such land under the said Act; and the provisions of that Act shall, so far as may be, apply to the acquisition of the said land with the modification that the market value of the land shall be the market value prevailing on the date of publication of the notice in the Tamil Nadu Government Gazette under section 26 or section 27, as the case may be.

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.”

6.A perusal of the above Sections makes it very clear that within three years from the date of publication of the notice, if no acquisition of land is made 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, such land shall be deemed to



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be released from such reservation, allotment or designation. Though the proviso also enables the Government to issue notification extending the period, till date, no such notification has been issued.

7.In such view of the matter, as the land has not been acquired within the mandatory period as per the above section, such land shall be deemed to be released from such reservation. Accordingly, the respondents shall release the land of the petitioner, if there is no such notification issued.

8.With the above direction, this Writ Petition is disposed of. No costs.

28.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1. The Director of Town and Country Planning,
2, 3 and 4th Floor, B, CMDA Office Campus,
E & C Market Road, Koyambedu,
Chennai-107.
2. The Deputy Director,
District Urban Development Office,
Office of District Collector,
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N.SATHISH KUMAR, J

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