



W.P(MD).No.22664 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.22664 of 2024

R.Kannan

... Petitioner

Vs.,

1.The District Collector,
Madurai, Madurai District.

2.The Director,
Town and Country Planning,
Chennai.

3.The Member Secretary,
Madurai Local Planning Authority,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents herein to release the land in S.No. 113/2 situated at Kochadai Village, measuring to an extent of 94 cents, earmarked as 100feet road in the Kochadai Detailed Development Plan 2 and 3 by virtue of Section 38 of Tamil Nadu Town and Country Planning Act 1971, by considering the representation sent by the petitioner dated 06.08.2024.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.D.Gandhiraj
Special Government Pleader



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ORDER

This writ petition has been filed seeking for writ of mandamus directing the respondents herein to release the land in S.No.113/2 situated at Kochadai Village, measuring to an extent of 94 cents, earmarked as 100 feet road in the Kochadai Detailed Development Plan 2 and 3 by virtue of Section 38 of Tamil Nadu Town and Country Planning Act 1971, by considering the representation sent by the petitioner dated 06.08.2024.

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

3. Mr.D.Gandhiraj, learned Special Government Pleader takes notice for the respondents.

4. It is the case of the petitioner that the subject property in S.No.113/2 situated at Kochadai Village, measuring to an extent of 94 cents, belongs to him. While that being so, in the year 2001, the Government published “Kochadai Detailed Development Plan Member 1, 2 and 3. Pursuant to the same, the



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petitioner's part of the said land was classified as 'proposed 100 feet road'. Though the said plan was published in the year 2001, 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. In this regard, on 06.08.2024, the petitioner has made a representation to the respondents to release his land. However, no steps have been taken so far. Hence, seeks direction of this Court.

5. The learned Special Government Pleader appearing for the respondents would submit that the representation of the petitioner would be considered on merits within the stipulated time to be fixed by this Court.

6. 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 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



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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



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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.”

7. 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 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.



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8. 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.

9. With the above direction, this Writ Petition is allowed. No costs.

24.09.2024

NCC : Yes/No

Index : Yes/No

Rmk

To

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