



W.P.(MD).No.26155 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.26155 of 2024
and WMP(MD) No.22161 of 2024

1. A.Subbaiah

2. S.Vasanthakumar

... Petitioners

Vs

1. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
Cmnda Office Complex,
E and C Market Road,
Srinivasa Nagar,
Virrugambakkam,
Koyambedu, Chennai.

2. The Assistant Director / Member Secretary,
District Town and Country Planning Office,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of declaration to declare the reservation in respect of the lands of the petitioners comprised in S.No. 277/2 at Chettinaickenpatty Village, Dindigul West Taluk, Dindigul District, under the Chettinainaickenpatty detailed Development Plan No.1 (Dindigul Local



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Planning Area) to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 within the time stipulated by this Court.

For Petitioners : Mr. K.Mohamed Nihal
for M/s.Ajmal Associates

For Respondents : Mr..Kameswaran
Government Advocate

ORDER

The present writ petition has been filed seeking a declaration to declare the reservation in respect of the lands of the petitioners comprised in S.No. 277/2 at Chettinaickenpatty Village, Dindigul West Taluk, Dindigul District, under the Chettinainaickenpatty detailed Development Plan No.1 (Dindigul Local Planning Area) to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971 within the time stipulated by this Court.

2.By consent of both parties, considering the limited relief sought for by the petitioners, the Writ Petition is taken up for final disposal at the stage of admission itself.



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3.Heard, the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents. Perused the materials on record.

4.It is submitted by the learned counsel for the petitioners that the petitioners are entitled to the land to an extent of 1.10.0 hectares comprised in S.No. 277/2 at Chettinaickenpatty Village, Dindigul West Taluk, Dindigul District. The petitioners have also perfected title by effecting mutation. While so, the land was marked by the second respondent stating that the said property has been reserved for road and public purpose forming part of Chettinainaickenpatty detailed Development Plan No.1 (Dindigul Local Planning Area), which is, published in the official Gazette and the same was approved by the first respondent on 07.05.2005. Though the same has been published in the official Gazette, the petitioners lands reserved under the Chettinainaickenpatty detailed Development Plan No.1 (Dindigul Local Planning Area) has not been acquired till date. The petitioners are continuing to be in possession and enjoyment of the same. Since the same was not acquired, the petitioners have filed this writ petition and pressed for allowing



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the writ petition in terms of Section 38 of the Tamil Nadu Town and Country Planning Act 1971.

5.The learned Government Advocate fairly conceded that the matter in hand is covered by the order of this Court in W.P(MD) No.22770 of 2024, dated 23.09.2024.

6.For better appreciation, the relevant portion of the said order is extracted hereunder:

“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 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):



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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 subsection (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.



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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 make 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



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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.”

7. Fully fortified with the order passed by this Court and the lis in hand being a similar one, I am of the considered view that the land, which was reserved for road and public purpose by the 2nd respondent by publishing official Gazette in terms of Chettinainaickenpatty detailed Development Plan No.1 (Dindigul Local Planning Area) as early as on 07.05.2005 and since no steps have been taken for acquiring the same, such land shall be deemed to be released from such reservation or allotment in terms of Section 38 of the Tamil Nadu Town and Country Planning Act 1971.



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8. Accordingly, the respondents are directed to release the land of the petitioners, if there is notification with respect to acquisition of land is not issued so far.

9. With the above direction, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.11.2024

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

To
1. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
Cmnda Office Complex,
E and C Market Road, Srinivasa Nagar,
Virrugambakkam, Koyambedu, Chennai.

2. The Assistant Director / Member Secretary,
District Town and Country Planning Office,
Dindigul.



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L.VICTORIA GOWRI, J.

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