



W.P.(MD)No.26924 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2024

CORAM

THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.26924 of 2024

M.Saravanaganeshan

... Petitioner

Vs

1.The Principal Secretary,
Housing and Urban Development Department,
Secretariat, Chennai.

2.The Director of Town and Country Planning Authority,
Koyambedu, Chennai.

3.The Commissioner,
Aruppukottai Municipality,
Virudhuangar District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, declaring that the reservation made in respect of the petitioner's land comprised in Old Survey No.182, (New Survey No. 10/1) included in Aruppukkottai Municipality eastern extension Town Planning Scheme Part 1, Aruppukkottai Village, which was reserved for laying proposed road, is lapsed and released from the reservation / designation / allotment under Section 37 and 38 of Tamil Nadu Town and Country Planning Act, 1971.

For Petitioner : Mr.M.Karthikeya Venkatachalapathy

For Respondents : Mr.S.Kameswaran
Government Advocate for R1 & R2
Mr.N.Dilipkumar
Standing Counsel for R3



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ORDER

The prayer of the writ petition is as follows:

This writ petition has been filed for issuance of a writ of Mandamus, declaring that the reservation made in respect of the petitioner's land comprised in Old Survey No.182, (New Survey No.10/1) included in Aruppukkottai Municipality eastern extension Town Planning Scheme Part 1, Aruppukkottai Village, which was reserved for laying proposed road, is lapsed and release from the reservation / designation / allotment under Section 37 and 38 of Tamil Nadu Town and Country Planning Act, 1971.

2.The petitioner has purchased 4 acres and 50 cents of land out of total extent of 8 acres and 50 cents of lands comprising in old Patta No.308, survey No.182, New survey No.10/1 at Arupukottai Village, Virudhunagar District by registered sale deed dated 01.06.2022. During the year 2007, the respondents published Arupukottai Municipality Eastern Extension Town Planning Scheme, Part -I and in which the petitioner's land in Old Survey No.182 was also included with a view to lay a proposed road. However, the respondents have neither taken any steps to acquire the lands nor taken any steps to implead the said planning scheme.



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3.In view of the same, this writ petition came to be filed seeking to declare the reservation made in respect of the petitioner's land which was reserved for laying the proposed road as lapsed.

4.The matter in hands is no more *res integra* and this Court has dealt with the similar matters in umpteen number of cases and in W.P(MD)No. 20277 of 2024, dated 23.09.2024, this Court has passed a favourable order to the petitioner therein and the relevant portion of the same is extracted as follows:

“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):

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.



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(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.

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



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(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 extending the period, till date, no such notification has been issued.”

5. In yet another case in W.P(MD).No.10239 of 2024 dated 26.04.2024, this Court has passed favourable order to the petitioner therein and fully fortified by the said orders, this Court has considered the similar nature of this case. Though the petitioner's land in old Survey No.182 of Arupukkottai Village was proposed to be acquired for the purpose of Arupukkottai Municipality Eastern Extension Town Planning Scheme, Part-I as early as 2007, so far no notification in this regard has been made nor the said land is acquired so far. In view of the same, it is hereby declared that the petition mentioned land is released from the reservation which has long since lapsed. The respondents are directed to make necessary changes in the relevant records.



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6. With the above said observations, this writ petition stands allowed.

No costs.

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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L.VICTORIA GOWRI, J.

RJR

To

1.The Principal Secretary,
Housing and Urban Development Department,
Secretariat, Chennai.

2.The Director of Town and Country Planning Authority,
Koyambedu, Chennai.

3.The Commissioner,
Aruppukottai Municipality,
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