



W.P.(MD)No.28395 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.12.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.28395 of 2024

1.Balasubramanian
2.Manonmani
3.Shaymala Ravichandran

... Petitioners

Vs.

1. The Director,
Directorate of Tamilnadu Town and Country Planning,
Cmnda Office, Market Road,
Koyambedu, Chennai.

2. The Deputy Director of Town And Country Planning,
Member Secretary,
Trichy Local Planning Authority,
Kajamalai Main Road,
Kajamalai, Trichy - 620023.

3. The Commissioner,
Trichy City Corporation,
Trichy.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare that the reservation made by the Bye-pass Road Detailed Development Plan I in Map No.5, DDP(V) / DTCP / Spl.CTCP. No. 25/2001 vide Proceedings in Roc.No. 7244/2KOP dated 16.05.2001 in respect of petitioners' land situated at Trichy District, Srirangam



W.P.(MD)No.28395 of 2024

Taluk, Velli Thirumutham village covered in T.S.No. 5/7A, Old Ward No. C, New Ward 3, Block No.1 measuring an extent of Ac.0.23 cents (10,018 Sq.ft) had lapsed in view of Section 38(b) of the Town and Country Planning Act, 1971.

For Petitioners : Mr.R.Vigneshwaran
for Ms.U.Nirmalarani
For Respondents : Mr.T.Amjad Khan (R1 & R2)
Government Advocate
Mr.R.Baskaran (R3)
Senior Counsel for R.B.Law Associates

ORDER

The prayer in the Writ Petition reads as follows:-

“declare that the reservation made by the Bye-pass Road Detailed Development Plan I in Map No.5, DDP(V) / DTCP / Spl.CTCP. No. 25/2001 vide Proceedings in Roc.No. 7244/2KOP dated 16.05.2001 in respect of petitioners' land situated at Trichy District, Srirangam Taluk, Velli Thirumutham village covered in T.S.No. 5/7A, Old Ward No. C, New Ward 3, Block No.1 measuring an extent of Ac.0.23 cents (10,018 Sq.ft) had lapsed in view of Section 38(b) of the Town and Country Planning Act, 1971.”



W.P.(MD)No.28395 of 2024

WEB COPY

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

3. Heard the learned counsel appearing for the petitioners, the learned Government Advocate and the learned senior counsel appearing for the respondents and carefully perused the entire materials available on record.

4. The petition mentioned property was purchased by way of a sale deed dated 09.07.2007 vide document No.1681/2007 in favour of the petitioners. While this being so, the subject property was earmarked for Bye-pass Road Detailed Development Plan dated 16.05.2001. However, the respondents have not acquired the subject property till date and nearly, 23 years have been lapsed. Hence, this writ petition came to be filed.

5. The matter in hand is no more *res integra* and this Court in another case in W.P.(MD)No.20277 of 2024, dated 23.09.2024, has already passed 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:~



W.P.(MD)No.28395 of 2024

'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.

(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.



W.P.(MD)No.28395 of 2024

(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 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



W.P.(MD)No.28395 of 2024

also enables the Government to issue notification extending the period, till date, no such notification has been issued.”

WEB COPY

6. Fully fortified by the aforesaid order, this Court is of the considered view that the land belonging to the petitioners has not been acquired so far, within the mandatory period as required by Sections 37 and 38 of the Tamil Nadu Town and Country Planning Act, 1971. Such land shall be deemed to be released from such reservation. The respondents shall release the land of the petitioners, if there is no such notification issued.

7. The Writ Petition is disposed of with the above direction. There shall be no order as to costs.

04.12.2024

(2/2)

NCC : Yes / No
Index : Yes / No
Sm



W.P.(MD)No.28395 of 2024

TO:-

WEB COPY

1. The Director,
Directorate of Tamilnadu Town and Country Planning,
Cmda Office, Market Road,
Koyambedu, Chennai.
2. The Deputy Director of Town And Country Planning,
Member Secretary,
Trichy Local Planning Authority,
Kajamalai Main Road,
Kajamalai, Trichy - 620023.



WEB COPY



W.P.(MD)No.28395 of 2024

L.VICTORIA GOWRI, J.

Sm

Order made in
W.P.(MD)No.28395 of 2024
(2/2)

Dated
04.12.2024