



W.P.(MD).No.29615 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.29615 of 2024

Alagiya Manavalan @ Manavalan

... Petitioner

Vs.

1.The Director of Town and Country
Planning, Office of the Directorate of
Town and Country Planning,
Second, Third and Fourth Floor,
E and C Market Road,
Koyambedu,
Chennai – 600 107.

2.The Member Secretary,
Madurai Town and Country Planning
Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

... 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 made in respect of the petitioner's land in Survey Nos.119/2 and 119/4A in Siruthur Village, Madurai North Taluk, Madurai, under the Siruthur Detailed Development Plan to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and the order made by this Court in W.P.(MD).No.14964 of 2021 dated 24.08.2021 and W.P.(MD).No. 17254 of 2021 dated 27.09.2021 and to consequently direct the 2nd



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respondent to entertain and grant planning permission for the development of the petitioner's land.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.S.Kameswaran,
Government Advocate

ORDER

By consent of both the parties, this writ petition is taken up for final hearing at the admission stage itself.

2.This writ petition is filed to declare the reservation made in respect of the petitioner's land in Survey Nos.119/2 and 119/4A in Siruthur Village, Madurai North Taluk, Madurai, under the Siruthur Detailed Development Plan to have lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and the order made by this Court in W.P.(MD).No.14964 of 2021 dated 24.08.2021 and W.P.(MD).No.17254 of 2021 dated 27.09.2021 and to consequently direct the 2nd respondent to entertain and grant planning permission for the development of the petitioner's land.



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3. Heard the learned counsels on either sides and carefully perused the materials available on record.

4. On 14.08.2002, the petitioner and two elder brothers, namely, A. Govindarajan and R. Kannan, had purchased a land in Plot No. 18 in Resurvey Nos. 260/3 and 260/4A to an extent of 4911 sq. ft. in Srithur Village, Madurai North Taluk, Madurai from one Mahalakshmi, W/o. V. P. Ragavan, through a registered settlement deed dated 14.08.2002 vide Document No. 2862 of 2002. Initially the said property was classified in UDR in Patta No. 236, UDR Survey No. 119/2 and 119/4A. Earlier the petitioner's vendor had obtained proper planning permission to divide the properties in Survey Nos. 109/1, 115/5 (Part) 116/1, 117/1A, 119/1, 2, 3, 4A and 8 (Old Survey Nos. 250/1, 256/5 (Part) 257/1A, 258/1A, 260/1, 2, 3, 4A and 8 at Srithur Village. The petitioner and his brother had purchased Plot No. 18. The petitioner intends to develop the said property by effecting construction. In furtherance thereof, he approached the 2nd respondent under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, seeking planning permission. However, the respondents refused to receive any application for planning permission stating that the land belonging to the petitioner and his brother forms part of the Siruthur Detailed



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Development Plan of the year 1998. Citing the said reason even applications for planning permission are not accepted. The Siruthur Detailed Development Plan had been published under Section 27 in the year 1998 and was approved by the 1st respondent in 2000. The petitioner's lands reserved under the Detailed Development Plan for the purpose of scheme roads have not been acquired till date and remain in the petitioner's possession and enjoyment.

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:~

'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



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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.

(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



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



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6. Fully fortified by the aforesaid order, this Court is of the considered view that the land belonging to the petitioner 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 no such notification is issued.

7. Accordingly, this writ petition stands disposed of. No costs.

09.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml
To

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L.VICTORIA GOWRI, J.

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