



W.P.No.7685 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.7685 of 2025

S.Raja

... Petitioner

vs.

1. The Secretary,
Housing and Urban Development Department.
Fort St.George, Chennai 600 015.
2. The Director,
Tamil Nadu Town and Country Planning,
2,3 & 4 Floor, CMDA Office, E & C Market Road,
Koyambedu, Chennai 600 092.
3. The Member Secretary/Deputy Director,
Coimbatore Local Planning Authority,
Door No.50, FCI Road, Gandhima Nagar,
Ganapathy, Coimbatore 641 004.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents to declare that the petitioner's land comprised in T.S.No.609/2, 611/2 & 4 Ward No.C(3), Block No.13, Kumarapalayam, Porur, Coimbatore District measuring 4797 sq.ft.is deemed to be released from the reservation of



W.P.No.7685 of 2025

Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the 3rd respondent to pass appropriate orders for release of petitioner's land comprised in T.S.No.609/2, 611/2 & 4, Ward No.C(3), Block No.13, Kumarapalayam, Perur, Coimbatore District measuring 4797 sq.ft. and pass appropriate orders .

For Petitioner : M/s.Dhalapathy Vignesh Kumar

For Respondents : Mr.M.Rajendiran
Addl.Govt.Pleader

ORDER

The present writ petition has been filed to declare the the petitioner's land comprised in T.S.No.609/2, 611/2 & 4 Ward No.C(3), Block No.13, Kumarapalayam, Poerur, Coimbatore District measuring 4797 sq.ft.is deemed to be released from the reservation of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and consequently direct the 3rd respondent to pass appropriate orders for release of the petitioner's land.

2. It is the case of the petitioner that he is the owner of the property



W.P.No.7685 of 2025

situated in T.S.No.609/2, 611/2 & 4 Ward No.C(3), Block No.13,

Kumarapalayam, Poerur, Coimbatore District measuring 4797 sq.ft. The said property was purchased vide a Sale Deed dated 07.09.2022 registered as Doc.No.6857 of 2022 on the file of Joint Sub-Registrar No.1, Coimbatore(hereinafter referred to as “ Subject Land”).

3. The petitioner approached the 2nd and 3rd respondents for planning approval for constructing commercial building consisting of basement floor, ground floor and three floors vide online Application dated 07.08.2023 bearing reference Number SWP/BPA/0012595/2023. But the said application was not considered by the respondent on the ground that a scheme road measuring 80 feet alleged to run across his property. After purchasing the property, revenue records was also mutated in his name and he was not aware that a road lies on his land. It is stated that the properties surrounding his property are all developed 80 feet runs does not exist at all. Hence, it is the contention of the petitioner that as per Section 37 of the Town and Country Planning Act, 1971, the planning authority devise any plan at the disposal of any private person required for any purpose for detailed development plan, same can



W.P.No.7685 of 2025

be acquired by the State Government by invoking the provision of the

Land Acquisition Act, 1894. Whereas Section 38 of the said Act contemplates, if such acquisition is not made within a period of three years from the date of publication of the detailed development plan, the land will be deemed to have been released from such reservation from the detailed development plan. Hence, there is no bar on the respondents to grant residential layout approval for his land. Aggrieved by the same, the petitioner has filed the present writ petition.

4. It is seen that similar matter has been already dealt with by this Court in W.P.No.965 of 2025 dated 14.02.2025. The relevant portions of the said order is extracted hereunder :-

6. Learned counsel appearing for the Petitioner would submit that she was informed that the Regularisation of the Plot could not be granted, as a detailed development plan had been approved by the 3rd Respondent under Section 29 of the Act as early as in the year 1994, with part of the Subject Land (approximately 1 cent) reserved for a proposed Scheme Road.

7. The subject land has been in possession and ownership of the Petitioner since its purchase in the year 1996. Though it appears that a portion of the



WEB COPY



W.P.No.7685 of 2025

Subject Land was notified under the Act as early as in the year 1994, wherein a part of the Subject Land (approximately 1 cent) was reserved for a proposed Scheme Road, the subject land continued to remain in possession of the Petitioner and the same has not been acquired by the concerned Respondents till date.

8. It is submitted that despite the lapse of nearly 31 years now, the land has not been acquired for the purpose for which it was reserved/designated. It would therefore be in contravention of the scheme and Section 38 of the Act to not regularise the unapproved plot under the garb of the Subject Land being reserved/designated for a Scheme Road. Further, the same would contravene her right under Article 300A of the Constitution of India.

9. It is further submitted that the application for regularisation was filed in the year 2018, and the requisite fee, as directed by the respondents, was paid in the month of February 2024. Despite having received a total sum of Rs.2,42,325/- towards Regularisation Fee, the 6th Respondent vide the impugned order rejected her application for regularization of the plot without affording an opportunity of being heard.

10. Learned counsel for the petitioner would then place reliance on the similar orders passed by this Court, which are as follows:-

- a) In the case of ***A.Kondasamy Vs. The Director of Town & Country Planning, Office of the Directorate of Town and Country Planning, 2nd, 3rd and 4th Floor, E & C Market Road, Koyambedu, Chennai –***



WEB COPY



W.P.No.7685 of 2025

600 107 and others in W.P.No.25243 of 2021 dated 29.11.2024.

- b) In the case ***Alagirisamy Vs. The Director of Town & Country Planning, 807, Anna Salai, Chennai, Chennai District and others*** in W.P.No.27672 of 2022 dated 12.12.2022.
- c) In the case of ***M/s.C.Vasanthadevi and another Vs. The Secretary, Housing and Urban Development Department, Fort St.George, Chennai – 600 015 and others*** in W.P.No.29069 of 2022 dated 12.12.2022.
- d) In the case of ***V.Vijayalakshmi Vs. The Managing Director, Office of Director Municipality, Chepauk, Near Anna Square, Chennai – 600 005 and others*** in W.P.No.29297 of 2022 dated 12.12.2022.
- e) In the case of ***S.Ponnusamy and others Vs. The Director of Town & Country Planning, Office of Directorate of Town & Country Planning, Second, Third and Fourth Floors, E & C Market Road, Koyambedu, Chennai – 600 107 and others*** in W.P.No.30168 of 2022 dated 12.12.2022.
- f) In the case of ***Ramesh Chand and others Vs. The Commissioner, Directorate of Town & Country Planning, Chengalvarayan Building, 4th Floor, 807,***



WEB COPY



W.P.No.7685 of 2025

Anna Salai, Chennai – 600 002 and others
in W.P.No.31752 of 2022 dated 12.12.2022.

g) In the case of ***M.Shanmugharaj Vs. The Director of Town & Country Planning, Office of Directorate of Town & Country Planning, Second, Third and Fourth Floors, E & C Market Road, Koyambedu, Chennai – 600 107 and others in W.P.No.30169 of 2022 dated 25.01.2023.***

11. A counter affidavit was filed on behalf of respondents 5 and 6 dated 31.01.2025.

12. Learned Government Advocate appearing for respondents 1 to 4 submitted a written instructions of the Assistant Director, District Town and Country Planning Office, Coimbatore, 4th respondent herein dated 12.02.2025.

13. Heard both sides and perused the materials available on record.

*14. The orders relied on by the learned counsel for the petitioner in the case of **A.Kondasamy Vs. The Director of Town & Country Planning, Office of the Directorate of Town and Country Planning, 2nd, 3rd and 4th Floor, E & C Market Road, Koyambedu, Chennai – 600 107 and others in W.P.No.25243 of 2021**, which held as follows:-*

“5. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation.



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W.P.No.7685 of 2025

In the present case, the respondents had failed to take any steps to acquire the subject land therefore, by operation of Section 38 of the Act, the scheme has lapsed.”

b) In the case *Alagirisamy Vs. The Director of Town & Country Planning, 807, Anna Salai, Chennai, Chennai District and others in W.P.No.27672 of 2022*, which held as follows:

“4. The main issue that has been urged before this Court is that the detailed development plan has lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.

5. It is not necessary for this Court to dwell much on the entire allegation in the Writ Petition, since for the very same detailed development scheme, a Division Bench of this Court in W.A (MD) No.485 of 2020 has held that the scheme had lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act. The relevant portions in the judgment are extracted hereunder :-

“11. As rightly pointed out by the learned counsel appearing for the respondents/writ petitioner that the counter affidavit proceeds on the merits of the claim and in no way deal with deemed lapse and in the considered opinion of this Court, the learned Judge, on correct appreciation of facts and by applying the legal position as enumerated in the above said judgment, allowed the writ petition. This Court, on going through the reasons assigned in the impugned order, is of the considered



WEB COPY



W.P.No.7685 of 2025

view that there is no infirmity or error apparent on the face of the record for the reason assigned by the learned Single Judge for allowing the writ petition and finds that the writ appeal lacks merits.

12. It is also brought to the knowledge of this Court that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD) No.14456 of 2014 was also dismissed on 02.03.2020.”

6. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion : -

1. M.Amsavalli v. Director of Town and Country Planning reported in (2017) 2 CWC 418.

2. RM.Shanmuganathan v. Director of Town and Country Planning reported in (2018) 2 CWC 20.

3. W.P.(MD) No.5652 of 2019 (LKS Mohammed Meera Mohaideen v. Director of Town and Country Planning)

4. W.A.(MD) No.485 of 2020 (The Director of Town and Country Planning and another v. Muthu and others) and

5. W.P.(MD) No.166 of 2021 (Nagendran v. The Director of Town and Country Planning).



W.P.No.7685 of 2025

Section 38 of the Tamilnadu Town and Country Planning Act reads as follows :

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. In the present case, the detailed development plan was notified under Section 37 of the Act in the year 2007. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.”

*c) In the case of **M/s.C.Vasanthadevi and another Vs. The Secretary, Housing and Urban Development Department, Fort St.George, Chennai – 600 015 and others in W.P.No.29069 of 2022**, which held as follows:-*

“4. The main issue that has been urged before this Court is that the detailed development plan has lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.



WEB COPY



W.P.No.7685 of 2025

5. *It is not necessary for this Court to dwell much on the entire allegation in the Writ Petition, since for the very same detailed development scheme, a Division Bench of this Court in W.A (MD) No.485 of 2020 has held that the scheme had lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act. The relevant portions in the judgment are extracted hereunder :-*

11. *As rightly pointed out by the learned counsel appearing for the respondents/writ petitioners that the counter affidavit proceeds on the merits of the claim and in no way deal with deemed lapse and in the considered opinion of this Court, the learned Judge, on correct appreciation of facts and by applying the legal position as enumerated in the above said judgment, allowed the writ petition. This Court, on going through the reasons assigned in the impugned order, is of the considered view that there is no infirmity or error apparent on the face of the record for the reason assigned by the learned Single Judge for allowing the writ petition and finds that the writ appeal lacks merits.*

12. *It is also brought to the knowledge of this Court that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD) No.14456 of 2014 was also dismissed on 02.03.2020."*

6. *This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such*



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W.P.No.7685 of 2025

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WEB COPY



W.P.No.7685 of 2025

7. In the present case, the detailed development plan was notified under Section 37 of the Act in the year 2007. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.”

d) In the case of *V.Vijayalakshmi Vs. The Managing Director, Office of Director Municipality, Chepauk, Near Anna Square, Chennai – 600 005 and others in W.P.No.29297 of 2022*, which held as follows:-

“4. The main issue that has been urged before this Court is that the detailed development plan has lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.

5. It is not necessary for this Court to dwell much on the entire allegation in the Writ Petition, since for the very same detailed development scheme, a Division Bench of this Court in *W.A (MD) No.485 of 2020* has held that the scheme had lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act. The relevant portions in the judgment are extracted hereunder :-

11. As rightly pointed out by the learned counsel appearing for the respondents/writ petitioners that the counter affidavit proceeds on the merits of the claim and in no way deal with deemed lapse and in the considered opinion of this Court, the learned Judge, on correct appreciation of facts and by applying the legal position as enumerated in the above said



WEB COPY



W.P.No.7685 of 2025

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12. It is also brought to the knowledge of this Court that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD) No.14456 of 2014 was also dismissed on 02.03.2020."

6. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released from such reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion : -

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WEB COPY



W.P.No.7685 of 2025

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7. In the present case, the detailed development plan was notified under Section 37 of the Act in the year 2007. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.”

e) In the case of S.Ponnusamy and others Vs. The Director of Town & Country Planning, Office of Directorate of Town & Country Planning, Second, Third and Fourth Floors, E & C Market Road, Koyambedu, Chennai – 600 107 and others in W.P.No.30168 of 2022, which held as follows:-

“4. The main issue that has been urged before this Court is that the detailed development plan has lapsed as per Section 38 of the Tamil Nadu



WEB COPY



W.P.No.7685 of 2025

Town and Country Planning Act, since the land has not been acquired within a period of three years from the date of publication of the notice under the Tamil Nadu Gazette.

5. It is not necessary for this Court to dwell much on the entire allegation in the Writ Petition, since for the very same detailed development scheme, a Division Bench of this Court in W.A (MD) No.485 of 2020 has held that the scheme had lapsed by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act. The relevant portions in the judgment are extracted hereunder :-

11. As rightly pointed out by the learned counsel appearing for the respondents/writ petitioners that the counter affidavit proceeds on the merits of the claim and in no way deal with deemed lapse and in the considered opinion of this Court, the learned Judge, on correct appreciation of facts and by applying the legal position as enumerated in the above said judgment, allowed the writ petition. This Court, on going through the reasons assigned in the impugned order, is of the considered view that there is no infirmity or error apparent on the face of the record for the reason assigned by the learned Single Judge for allowing the writ petition and finds that the writ appeal lacks merits.

12. It is also brought to the knowledge of this Court that the writ appeal filed by the official respondents in WA(MD) No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD) No.14456 of 2014 was also dismissed on 02.03.2020.”

6. This Court has consistently held that if the land has not been acquired within a period of three years from the date of publishing the detailed development plan in the Gazette, the concerned lands shall be deemed to be released



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W.P.No.7685 of 2025

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4. *W.A.(MD) No.485 of 2020 (The Director of Town and Country Planning and another v. Muthu and others) and*

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Section 38 of the Tamilnadu Town and Country Planning Act reads as follows :-

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7. *In the present case, the detailed development plan*



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W.P.No.7685 of 2025

was notified under Section 37 of the Act in the year 2007. However, the respondents failed to take any steps to acquire the land and therefore, by operation of Section 38, the scheme lapsed.”

f) In the case of Ramesh Chand and others Vs. The Commissioner, Directorate of Town & Country Planning, Chengalvarayan Building, 4th Floor, 807, Anna Salai, Chennai – 600 002 and others in W.P.No.31752 of 2022, which held as follows:-

“4. Admittedly, though the scheme road was proposed to be constructed, no steps have been taken by the respondents to acquire the land as per Section 38 of the Tamil Nadu Town Country Planning Act, which reads as follows : -

“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.”

5. Having regard to the above section and as steps has not been taken to acquire the land within three years as per the above section, the respondent shall, without reference to the original proposal of the ring road, is directed to consider the representation of the petitioners on its own merits.”

g) In the case of M.Shanmugharaj Vs. The Director



WEB COPY



W.P.No.7685 of 2025

of Town & Country Planning, Office of Directorate of Town & Country Planning, Second, Third and Fourth Floors, E & C Market Road, Koyambedu, Chennai – 600 107 and others in W.P.No.30169 of 2022, which held as follows:-

“4. Learned counsel for the petitioner would submit that only an extent of 4.85 acres have been developed as a layout. While developing the layout, necessary lands have been gifted by gift deed bearing No.10974/2019. According to him, as far as the land already gifted in respect of a layout forming 4.85 acres, he is not claiming any right over the gifted properties. Only he seeks the declaration in respect of the remaining properties as the acquisition has not happened within a period of three years, as contemplated under Section 38 of Tamilnadu Town and Country Planning Act, 1971.

5. Learned counsel for the respondents would submit that since the lands have already been gifted, the petitioner cannot have any right over the property. The entire extent of 7.04 acres was shown in a detailed development plan No.8 of the respondents for the purpose of constructing Elementary School, High school and Play ground. Though the declaration has been made on 15.07.1992, the land has not been acquired within a period of three years.

6. It is relevant to note that Section 38 of Tamilnadu Town and Country Planning Act, 1971, reads as follows:-

“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 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



WEB COPY



W.P.No.7685 of 2025

(b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation.”

7. However, it is admitted case that the land has not been acquired within a period of three years. In such view of the matter, as per Section 38 of the Tamilnadu Town and Country Planning Act, the remaining area other than the layout already developed shall be released from the development plan. It is also made clear that in future, if the Government intends to acquire the land for any other purposes, this order will not bar for the Government in view of the provision of Land Acquisition Act. Similarly, any application is filed or pending for regularisation of unapproved layout, such application shall be dealt as per Tamilnadu Town and Country Planning Act, 1971, on its own merits, strictly in terms of the Rules.”

15. In view of the above ratios laid down by this Court, this Court is of the considered view that the petitioner's land comprised in S.No.522 (part), Sanganur Village, Block 13, Coimbatore Ward No.18, Coimbatore North Taluk, as a Scheme ‘Road’ in the Sanganur Detailed Development Plan No.7, declared to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

*In the result, **this writ petition stands allowed with the above observations.** No costs. Consequently, connected miscellaneous petition is closed.*

5. In view of the above order passed by this Court in identical matters, this Court is of the opinion that the petitioner is also entitled for the same relief.



W.P.No.7685 of 2025

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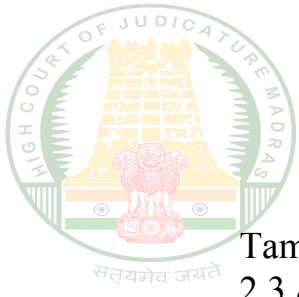
7. In the result, this writ petition stands allowed with the above observations. No costs.

05.03.2025

Index : Yes/No.
Internet : Yes/No.
Neutral Citation : Yes/No
Speaking : Non-speaking Order
kkd

To

1. The Secretary,
Housing and Urban Development Department.
Fort St.George, Chennai 600 015.
2. The Director,



W.P.No.7685 of 2025

Tamil Nadu Town and Country Planning,
2,3 & 4 Floor, CMDA Office, E & C Market Road,
Koyambedu, Chennai 600 092.

3. The Member Secretary/Deputy Director,
Coimbatore Local Planning Authority,
Door No.50, FCI Road, Gandhima Nagar,
Ganapathy, Coimbatore 641 004.

1.J.SATHYA NARAYANA PRASAD, J.

kkd

W.P.No.7685 of 2025

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