



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2025

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THE HONOURABLE MRS. JUSTICE N.MALA

WP.No.15933 of 2025

Chandrasekaran,
S/o.Ammaiyappan,
No.6/97,South Veethi, Nallipalayam,
Namakkal -637 003.

Petitioner(s)

Vs

1.The Additional Chief Secretary to Government,
Housing and Urban Development Department, Secretariat,
Chennai -600 009.

2.The Director of Town and Country Planning,
Directorate of Town and Country Planning,
Koyembedu, Chennai -600 107.

3.The District Collector,
Namakkal District.

4.The Deputy Director of Town and Country Planning,
Salem.

5.The Assistant Director of Town and Country Planning,
District Town and Country Planning,
District Collectorate, Namakkal.



6.The Commissioner/Deputy Director,
Namakkal City Municipal Corporation,
Namakkal.

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Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents herein to issue appropriate order releasing he Petitioners land situated in Ward No.A, Block-5, Namakkal Town, comprised in T.S.No.23/6, measuring an extent of 328 Sq.mtr, Old S.No.307/4 of Namakkal Village and Taluk, from the comprehensive variation map No. 4 for forming part of Namakkal Local Planning authority Detailed Development Plan No.2 of the year 1981 in view of deemed lapse as per section 38 of Tami Nadu Town and Country planning Act, 1971, by considering the petitioner's representation dated 05.03.2025, within the stipulated time as fixed by this Court and pass such further orders.

For Petitioner: Mr.S.Senthil

For Respondents: Mr.N.Naveenkumar,
Government Advocate
for R1 to R5

Mr.M.Rajamathivanan,
Standing Counsel for R6

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the Respondents herein to issue appropriate order releasing he Petitioners land situated in Ward No.A, Block-5, Namakkal Town, comprised in



T.S.No.23/6, measuring an extent of 328 Sq.mtr, Old S.No.307/4 of Namakkal

Village and Taluk, from the comprehensive variation map No. 4 for forming part of Namakkal Local Planning authority Detailed Development Plan No.2 of the year 1981 in view of deemed lapse as per section 38 of Tami Nadu Town and Country planning Act, 1971, by considering the petitioner's representation dated 05.03.2025.

2. The case of the Petitioner is that he is the owner of land situated in S.No.307/4 of Namakkal Village and Taluk, measuring 89¾ cents (or 328 sq.m. in T.S.No.23/6, Ward No.A, Block 5, Namakkal Town), acquired through a compromise decree in O.S.No.302/2005 passed by the Subordinate Court, Namakkal. The said land falls under the Namakkal Local Planning Authority Detailed Development Plan (DDP) No.2, formulated as per LPA Resolution No.2 dated 25.04.1981 and DTCP Letter No.33239/81 dated 25.09.1982. As per the plan, a comprehensive variation map No.4 was prepared, wherein the Petitioner's land was earmarked as a proposed road.

3. Learned Counsel for the Petitioner submits that as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, if land reserved in a



detailed development plan under Section 26 or 27 is not acquired within three years of publication or by mutual agreement, it shall be deemed to be released.

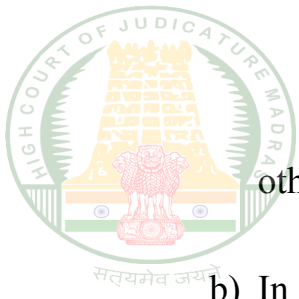
Since the DDP was prepared in 1981 and no acquisition proceedings were initiated thereafter, the reservation of his land as a proposed road has lapsed.

Therefore, he submitted a representation on 05.03.2025 to the authorities seeking release of his property from the proposed road designation. However, the authorities have not taken any action, prompting the present Writ Petition.

4. Learned Counsel for the petitioner further submits that the petitioner had made representations several times to the respondents to release the lands belonging to him, as the same are not acquired and no more public purpose is involved under the deemed proviso, viz., under Section 38 of the Act, land would be deemed to be released from reservation, allotment or designation.

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

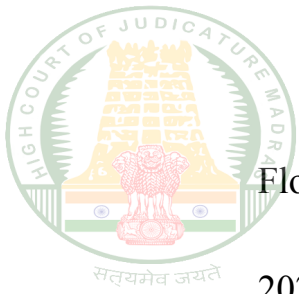
- a) In the case of A.Kondasamy Vs. The Director of Town & Country Planning, Office of the Directorate of Town and Country Planning, 2nd, 3rd and 4th Floor, E & C Market Road, Koyambedu, Chennai – 600 107 and



others in W.P.No.25243 of 2021 dated 29.11.2024.

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

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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.

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

7. 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. 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:

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“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 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



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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).*

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:



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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.

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Director Municipality, Chepauk, Near Anna Square, Chennai – 600 005 and

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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.

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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.

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“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 :



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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 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



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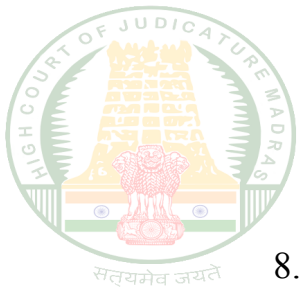


that since the lands have already been gifted, the petitioner cannot have any right over the property. The entire extent of 7.04 acres was shown in a detailed development plan No.8 of the respondents for the purpose of constructing Elementary School, High school and Play ground. Though the declaration 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
(b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation.”*

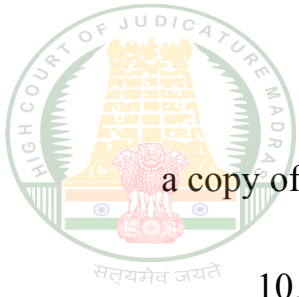
7. However, it is admitted case that the land has not been acquired within a period of three years. In such view of the matter, as per Section 38 of the Tamilnadu Town and Country Planning Act, the remaining area other than the layout already developed shall be released from the development plan. It 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.”



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8. In view of the plethora of decisions of this Court as quoted above, the law is well settled in this regard, as the issue raised in the writ petition is no longer res integra. Once the three-year period is lost within the meaning of Section 37(2) proviso thereafter, Section 38 can very well be pressed into service and ultimately, the land is deemed to be released from such reservation, allotment, or designation.

9. Therefore, in view of the legal provisions as well as the categorical decisions made by this Court, this Court has no hesitation in holding that the petitioner's land comprised in Ward No.A, Block-5, Namakkal Town, comprised in T.S.No.23/6, measuring an extent of 328 Sq.mtr, Old S.No.307/4 of Namakkal Village and Taluk, shall be deemed to be released from such reservation, allotment or designation under Section 38 of the Town and Country Planning Act. Accordingly, the respondents are directed to pass appropriate orders in releasing the said land from the comprehensive variation map No.4 for forming part of Namakkal Local Planning authority Detailed Development Plan No.2 of the year 1981, within a period of four weeks from the date of receipt of



a copy of this order.

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10.In the result, this writ petition stands allowed with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

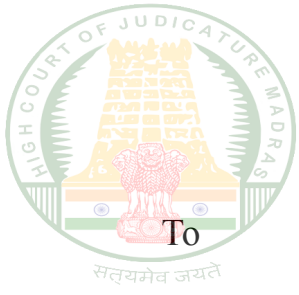
02.07.2025

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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1. The Additional Chief Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai -600 009.
2. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
Koyembedu, Chennai -600 107.
3. The District Collector,
Namakkal District.
4. The Deputy Director of Town and Country Planning,
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