



W.P.No.22165 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2025

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CORAM :

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.22165 of 2025

P.Nithiyanandha Kumar

... Petitioner

Vs.

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

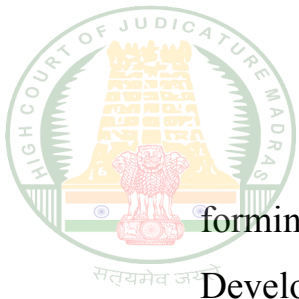
2. Assistant Director,
Town & Country Planning,
Office of the District Town & Country Planning,
First Floor, Kumaran Commercial Complex,
Tiruppur.

3. The Member Secretary,
Local Planning Area,
Office of Local Planning Area,
Tiruppur.

4. The Commissioner,
Dharapuram Corporation,
Tiruppur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Declaration, to declare that the property comprised in Survey No.571/2B, Survey No.573/5A, Survey No.573/3H together measuring to an extent of acres 5.90 cents, situated at Velampalayam Village, Tiruppur Taluk, Tiruppur District (property)



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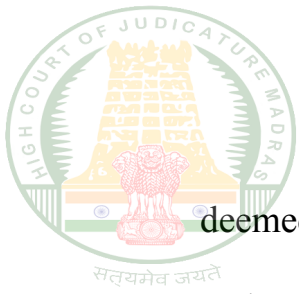
forming part of for Tiruppur Local Planning Area Velampalayam Detailed Development Plan-20 MAP 2 approved by the Regional Deputy Director of Town and Country Planning Tiruppur in DDP/R(CR) No.6/2005 dated 29.03.2005, presently redesignated as Assistant Director, District Town and Country Planning Tiruppur, the second Respondent herein, the petitioners lands falls on for the purpose of forming the C.C.15.4 M Road and C1 C1-15.4 M Road to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Ac 35 of 1974) and the decisions of this Court in W.P.(MD) No.8515 of 2021, dated 25.06.2021 and in W.P.No.106 of 2022, dated 07.01.2022 and in W.P.No.538/2022 dated 19.01.2022 and in W.P.No.22384/2023 dated 22.08.2023 and W.P.No.33826/2023 dated 08.04.2024 and in W.P.No.32815 of 2024, dated 14.02.2025.

For Petitioner : Mr.P.Tamimani

For Respondents : Mrs.P.Vijayadevi, GA for R1 to R3
Mr.Abishek Murthy, SC for R4

ORDER

This Writ Petition is filed for declaration to declare that the petitioner's property comprised in Survey No.571/2B, Survey No.573/5A, Survey No.573/3H, measuring a total extent of acres 5.90 cents, at Velampalayam Village, forming part of the Detailed Development Plan-20 MAP 2 approved by the Regional Deputy Director of Town and Country Planning Tiruppur in DDP/R(CR) on 29.03.2005, and reserved for the purpose of forming the C.C.15.4 M Road and C1 C1-15.4 M Road, is



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deemed to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Ac 35 of 1974).

2. The petitioner states that under a registered Partition Deed, dated 05.12.2011, he acquired lands in Survey No.571/2B, Survey No.573/5A and in Survey No.573/3H measuring totally an extent of acres 5.90 cents in Velampalayam Village, Tiruppur Taluk, Tiruppur District. The petitioner was also issued patta bearing No.9615, for the subject lands on 08.08.2024. The petitioner states that he has been in possession and enjoyment of the subject property till date. The petitioner states that since he intended to develop the property, he approached the office of the respondents, where he was informed that his property was included in the Velampalayam Detailed Development Plan – 20, MAP 2, which was approved by the Deputy Director of Town and Country Planning, Coimbatore Region on 29.03.2005 for the purpose of forming C.C.15.4 M Road and C1 C1-15.4 M Road. The petitioner states that his property was not acquired as required by Section 37 of the Town and Country Planning Act and therefore his property is deemed to be released from such reservation under Section 38 of the Town and Country Planning Act. Under the circumstances the petitioner filed the above writ petition for the



aforesaid relief.

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3. The learned counsel for the petitioner submitted that the law is no longer *res integra*, and relied on several judgments of this Court in support of his contention that if the lands were not acquired within 3 years of the publication of the detailed development plan then the same are deemed to be released from reservation.

4. Mrs.P.Vijayadevi, learned Government Advocate appearing for the Respondents 1 to 3 on instructions submitted that the petitioner's lands though included in the Detailed Development Plan, were not acquired within three years, from the date of publication of the Development Plan as provided under Sections 37.

5. As rightly submitted by the petitioner's counsel the legal issue involved in the writ petition is no longer *res integra*.

6. This Court 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***



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2022, 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 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 reservation. It will be beneficial to provide the details of the cases, wherein this Court had reached such a conclusion :



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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.”

7. In yet another decision 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, this Court has held as follows:



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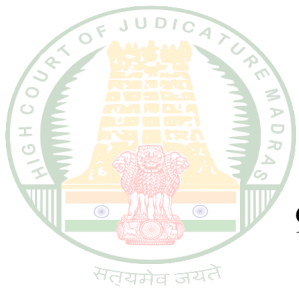
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“4. Admittedly, though the scheme road was proposed to be constructed, no steps have been taken by the respondents to acquire the land as per Section 38 of the Tamil Nadu Town Country Planning Act, which reads as follows :

“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.”

8. In view of the settled law and in the light of the factual submissions of the learned counsels appearing on either side that the petitioner's lands were not acquired, within a period of three years from the date of publication of the Development Plan, the petitioner's lands are deemed to be released from reservation under the provisions of Section 38 of the Town and Country Planning Act, 1971. This Court therefore finds merit in the writ petition.



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9. Accordingly, the Writ Petition is allowed. It is declared that the property comprised in Survey No.571/2B, Survey No.573/5A, Survey No.573/3H together measuring to an extent of acres 5.90 cents, situated at Velampalayam Village, Tiruppur Taluk, Tiruppur District (property) forming part of for Tiruppur Local Planning Area Velampalayam Detailed Development Plan-20 MAP 2 approved by the Regional Deputy Director of Town and Country Planning Tiruppur in DDP/R(CR) No.6/2005 dated 29.03.2005, presently redesignated as Assistant Director, District Town and Country Planning Tiruppur, the second Respondent herein, the petitioners lands falls on for the purpose of forming the C.C.15.4 M Road and C1 C1-15.4 M Road have been lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Ac 35 of 1974).
No costs.

29.08.2025

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes / No
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