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Writ Petition No.36559 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 23.01.2025**

**CORAM :**

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

**Writ Petition No.36559 of 2024**

K.Rukkumani

.... Petitioner

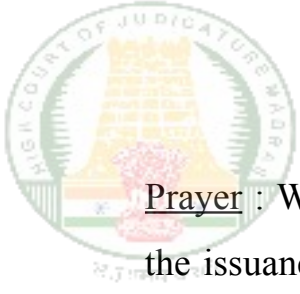
-Vs-

1.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.

2.The Member Secretary  
Thiruppur Local Planning Authority  
1<sup>st</sup> Floor, Kumaran Commercial Complex  
Thiruppur-641 601.

3.The Commissioner  
Thiruppur Municipal Corporation  
Thiruppur.

... Respondents



Writ Petition No.36559 of 2024

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the property comprised in Old S.No.230/6, New S.No.230/6A, as per patta No.8876 Sub divided in S.No.230/6A1B measuring to the extent of acre 0.42 cents, situated at Velampalayam Village, Thiruppur North Taluk, Tiruppur District (property) forming part of MAP No.4 & 5 DDP (CR) DTCP No.07/2015 vide ROC No.13717/2008 DP2 dated 03.07.2010 for Thiruppur Local Planning Area – Velampalayam Village Detailed Development Plan No.10 which was approved by the first respondent for a A1A1 Road, and the same has been published in the Tamil Nadu Government Gazette on 17.11.2010 in Part VI Section I by the 1<sup>st</sup> respondent herein, to have lapsed in the light of Section 38 of the Tamil Nadu town and Country Planning Act, 1971 (TN Act 35 of 1974) and the decisions of this Court in W.P.(MD).No.8515 of 2021 dated 25.06.2021, W.P.No.106 of 2022 dated 17.01.2022, W.P.No.538 of 2022 dated 19.01.2022, W.P.No.22384/2023 dated 22.08.2023 and in W.P.No.33826 of 2023 dated 08.04.2024.

For Petitioner : Mr.P.Tamilmani

For Respondents : Mr.V.Nanmaran  
Additional Government Pleader  
for R1 & R2

Mr.Abishek Murthy  
Standing Counsel  
for R3



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## **ORDER**

The Writ Petition has been filed for issuance of a Writ of Declaration, declaring the properties in Old S.No.230/6, New S.No.230/6A, as per patta No.8876 Sub divided in S.No.230/6A1B measuring to the extent of acre 0.42 cents, situated at Velampalayam Village, Thiruppur North Taluk, Tiruppur District earmarked for a A1A1 Road for the public purpose in Velampalayam Village Detailed Development Plan No.10, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

2.The case of the petitioner is that the properties in Old Survey No.230/6 and New S.No.230/6A, as per patta No.8876 Sub divided in S.No.230/6A1B situated at Velampalayam Village, Thiruppur North Taluk, Tiruppur District, belong to the petitioner. While so, a proposal was established in the name of 'Detailed Development Plan' for Velampalayam Village. The Government has notified the same through Gazette notification as Velampalayam Detailed Development Plan No.10. On such notification, the Government had notified/reserved the lands in Old Survey No.230/6 and New S.No.230/6A, measuring to an extent of acre 0.42 cents situated at Velampalayam Village, Tiruppur North Taluk, Tiruppur District. Once the Detailed Government Plan comes



into operation, the Government has to acquire the land under Section 36 of the Tamil Nadu Town and Country Planning Act and appropriate compensation has to be provided under Section 39 of the Tamil Nadu Town and Country Planning Act, within the period of three years. Even after lapse of fourteen years, till today no acquisition has been made. Therefore, the present case falls under Section 38 of the Tamil Nadu Town and Country Planning Act. Hence, the lands in Old Survey No.230/6 and New S.No.230/6A, and sub divided Survey No.230/6A1B are deemed to be released.

3. The learned counsel appearing for the petitioner has relied on a decision of this Court in W.P.(MD).No.10659 of 2012, dated 10.12.2012. The relevant portion of the order reads as follows:-

*“8. In this regard, useful reference could made to a decision reported in (2008) 2 MLJ 184 (K.S.Kamakshi Chetty and others vs. Commissioner, Aruppukottai Municipality, Aruppukottai and another), wherein it has been held as follows:-*

*“9. On the facts and circumstances of the present case, the petitioners have clearly stated in the affidavit, that even under the old Act VII of 1920, no steps were taken for*



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*the purpose of completing the acquisition within three years and the same has not been denied in the counter affidavit filed by the first respondent. Even assuming that the said Scheme has been taken over under the Act 35 of 1972, even from the date of coming into effect of the Act within the period stipulated under Section 38, no steps have been taken by the respondents for acquiring the property for the purpose of “open space” stated to have been reserved under the North-East Extension Town Planning Scheme Part II, Aruppukottai sanctioned under G.O.Ms.No.474 LA dated 02.03.1969.”*

*9. Therefore, the acquisition cannot be made at this stage, since the period of three years as contemplated under the said provision is already over. Accordingly, this Writ Petition is allowed. No costs.”*

4. Following the same, this Court is of the view that the acquisition cannot be made at this stage, since the period of three years as contemplated under the said provision is already over. It is stated that in future, the scheme road could be developed for the benefit of the general public if that be so, then fresh proceedings can be initiated by the respondents in the manner known to law.



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5. Accordingly, this Writ Petition is allowed and the respondents are directed to release the land in Old Survey No.230/6 and New S.No.230/6A, sub divided S.No.230/6A1B measuring to an extent of acre 0.42 cents situated at Velampalayam Village, Thiruppur North Taluk, Tiruppur District, forming part of Velampalayam Detailed Development Plan No.10, by virtue of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes/No  
NCS : Yes/No  
KP



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To

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**C.V.KARTHIKEYAN.,J**  
**KP**

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