



W.P.(MD).No.1832 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.1832 of 2025

M.Senthilkumar

... Petitioner

Vs.

- 1.The Director,
Town and Country Planning Department,
No. 807, Anna Salai, 4th Floor,
Chennai 600 002
- 2.The Assistant Director,
Theni District Town and Country Planning Office,
Door No.446/A, Ward - 17, Nehruji Street,
Allinagaram,
Theni - 625 531,
Theni District.
- 3.The Member Secretary and Executive Authority Of
Cumbum Municipality,
Local Planning Authority,
Cumbum Municipality,
Cumbum - 625 516
Theni District.
- 4.The Commissioner,
Cumbum Municipality,
Cumbum - 625 516
Theni District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents herein to release the petitioners land with an extent of 872 square feet (2 cent) in Survey No.750, situated at Cumbum Village, Theni District, earmarked for “The Detailed Development Plan No. 5 of Cumbum Local Planning Authority” by treating the “The Detailed Development Plan No. 5 of Cumbum Local Planning Authority” as lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act 1971 land.

For Petitioner : Mr.M.Karuppasamy Pandian

For Respondents 1 to 3 : Mr.D.S.Neduncheliyan
Government Advocate

For 4th Respondent : Mr.Hema Karthikeyan

ORDER

This Writ Petition is filed, to direct the respondents herein to release the petitioners land with an extent of 872 square feet (2 cent) in Survey No. 750, situated at Cumbum Village, Theni District, earmarked for “The Detailed Development Plan No. 5 of Cumbum Local Planning Authority” by treating the “The Detailed Development Plan No. 5 of Cumbum Local Planning Authority” as lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act 1971 land.

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



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3.The petitioner purchased a property with an extent of 872 square feet (2 cent) on 23.11.2022, from one T.Deivam vide registered Document No.7169/2022 and the said property is situated at Survey No.750, situated at Cumbum Village, Theni District. The respondents had taken steps to extend the area and for which the respondents had prepared the Detailed Development Plan No.5 of Cumbum Local Planning Authority and after following procedures, the respondents have published the approval of the the detailed development plan and his property was included in the said plan. However, no action was taken for acquiring land property. The respondents ought to have released the aforesaid property since it is lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. 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.

4.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:-



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“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 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:



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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 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



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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.”

5.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.

6.Accordingly, this Writ Petition stands disposed of. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

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