



**W.P.(MD).No.9347 of 2025**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 04.04.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH**

**W.P.(MD)No.9347 of 2025**

Dindigul Nadar Uravinmurai S.M.B.Manickam Nadar  
Packiathammal National Public School Managing Board,  
Represented by its Secretary,  
R.Ramadas,  
No.35, G.T.N.Salai,  
Dindigul – 642 005.

... Petitioner

-vs-

1. The Director of Town and Country Planning,  
Directorate of Town and Country Planning,  
CMDA Office Complex,  
E and C, Market Road,  
Srinivasa Nagar, Virugambakkam,  
Koyambedu, Chennai.

2. The Member Secretary,  
Dindigul Local Planning Authority,  
Dindigul.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare the reservation in respect of the land of the petitioner society comprised in S.Nos.161, 51/3, 51/4, 52/1 and 52/3 Dindigul East Taluk, Kurinji Nagar under the Balakrishnapuram Race Course Detailed Development Plan Part - II To have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971.



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For Petitioner : Mr.S.A.Iniyavan Abdullah

For Respondents : Mr.C.Venkatesh Kumar

Special Government Pleader

### **ORDER**

This writ petition has been filed seeking a Writ of Declaration to declare the reservation in respect of the land of the petitioner society comprised in S.Nos.161, 51/3, 51/4, 52/1 and 52/3 Dindigul East Taluk, Kurinji Nagar under the Balakrishnapuram Race Course Detailed Development Plan Part - II to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act 1971.

2. Heard the learned counsel on either side and perused the materials placed before this Court.

3. The learned counsel appearing on behalf of the petitioner contends that under Section 38 of the Town and Country Planning Act, since the scheme / Detailed Development Plan has not been put to effect, the said plan has to be deemed to have lapsed.



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4. The issue in this regard is no longer *res integra*. A learned Single Judge of this Court by an order, dated 27.09.2019, in ***W.P.(MD)No.9118 of 2009 [A.George (died) and another vs The Member Secretary, Thanjavur Local Planning Authority and others]*** had examined the issue and had finally stated as follows.

“12.Likewise, there is no dispute or disagreement that there is no acquisition of aforesaid land that was reserved in the instant case.

13.Therefore, in the considered view of this Court, it follows as an indisputable sequitur that the land reserved in the instant case ie., case on hand also stands released by operation of Section 38 of T.N.T.C.P.A Act.

14.The further sequitur is that the impugned order made by the third respondent has to be set aside.

15.In the light of narrative thus far, instant writ petition is allowed. There shall be no costs.”

5. It is noted that another learned Single Judge of this Court in ***W.P. (MD)Nos.29118-29120 of 2022, [Rahman Beevi vs the Director, Directorate of Town and Country Planning and another]***, dealt with Karanthai Detailed Development Plan Part-VI and by an order, dated 20.01.2023 had stated as follows:

“2.The petition mentioned land was reserved for road purposes in the detailed development plan in the year 1988. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 is 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



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*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.”*

*3.In this case, within three years from the date of publication of the detailed development plan, the land was not acquired. Since consequential steps were not taken, it is declared that the reservation made in respect of the petition mentioned land is deemed to have lapsed. It stands released from such reservation in view of the aforesaid statutory provision. The respondents are directed to make the necessary changes in the revenue record. 4.These writ petitions are allowed accordingly. No costs.”*

6. The said order also enures the right of the petitioner herein. The provision of law is very clear on this aspect. If a detailed development plan is not put in effect within a period of three years from the date of notification, it has always been held as lapsed.

7. The learned counsel also relied on the judgment of the Hon'ble Supreme Court in ***Raju S.Jethmalani and others vs. State of Maharastra and others*** reported in ***(2005) 11 SCC 222***, with a specific reference to paragraph No.3. It had again been reiterated that the Government can prepare a development plan, but cannot deprive the persons from using the private property without acquiring the private land.



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8. In view of the fact that there has been no acquisition and only a plan had been drawn, the plan is deemed to have lapsed under Section 38 of the Act. The Writ petition stands allowed. No costs.

**04.04.2025**

NCC : Yes/No  
Index : Yes / No  
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**TO:-**

1. The Director of Town and Country Planning,  
Directorate of Town and Country Planning,  
CMDA Office Complex,  
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Srinivasa Nagar, Virugambakkam,  
Koyambedu, Chennai.
2. The Member Secretary,  
Dindigul Local Planning Authority,  
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**VIVEK KUMAR SINGH, J.**

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Order made in  
W.P.(MD)No.9347 of 2025

Dated:  
04.04.2025