



W.P.(MD)No.10357 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.10357 of 2025

S.Venkata Subbiah

: Petitioner

Vs.

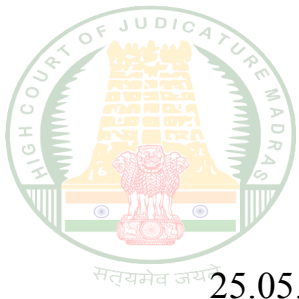
1. The Director,
Directorate of Town and Country Planning,
2nd, 3rd, and 4th Floor,
C and E Market Road,
Koyembedu, Chennai.

2. The Joint Director,
Town and Country Planning,
Tirunelveli City Municipal Corporation,
Tirunelveli

3. The Commissioner,
Tirunelveli City Municipal Corporation,
Tirunelveli.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Declaration declaring that the reservation of area shown for D-D and D1-D1 Road situated in S.No.257/1C and S.No. 257/4B at Keelanatham Village, Palayamkottai Taluk, Tirunelveli District in the “Keelanatham Detailed Development Plan No.5” published on



W.P.(MD)No.10357 of 2025

25.05.2018 as lapsed and deemed to be released as per “section 38” of the Town and County Planning Act, 1971, and consequently direct the respondents to make necessary classifications and not to reject or return the building plan approval or layout on the ground of reservation of land as per the Development Scheme.

For Petitioners : Mr.H.Arumugam

For Respondents : Mr.C.Venkatesh Kumar

Special Government Pleader

ORDER

In view of the consent expressed by the learned counsel for the parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner's case is that he purchased the property in S.No. 257/1C and S.No.257/4 situated at Keelanatham Village, Palayamkottai Taluk, Tirunelveli District and has been in absolute possession and enjoyment of the property. When the petitioner planned to form a layout, he was informed that two roads were shown as scheme road including the petitioner's property. Aggrieved by the same, the petitioner has come forward with the present writ petition.



W.P.(MD)No.10357 of 2025

WEB COPY

3. When the matter was taken up for hearing today, the learned counsel on both sides, submitted that the issue involved in this writ petition is squarely covered by the order of this Court dated 19.09.2018, passed in W.P.(MD) Nos.16353 and 16359 of 2018. The relevant portion of the order is extracted hereunder:

“7. In order to avoid repetition of the aforesaid decision, this Court thinks it fit to refer the operative portion of the order, namely, Paragraph Nos.7 to 13, which are extracted hereunder:

“7.Heard both sides and perused the materials available on record.

8.Sections 37 and 38 of the Tamil Nadu Town and Country Planning Act, 1971 read as follows:-

“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.

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



WEB COPY



W.P.(MD)No.10357 of 2025

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.?

9. A plain reading of sections 37 and 38 of the Tamil Nadu Town and Country Planning Act, 1971 (herein-after called as Act) would reveal that after 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, any land is required, reserved or designated in such plan, acquisition of the land shall be made either under section 36 of the Act or following the procedures under Land Acquisition Act. If the acquisition proceedings are not completed within three years from the date of such notice, the entire proceedings would lapse.

10. In **2008(2) MLJ 184** [K.S.Kamakshi Chetty and others vs. Commissioner, Aruppukottai Municipality, Aruppukottai and another], this court has held that 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 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 2.3.1969.

10. This has been the consistent view taken by this Court in various cases also. In W.P.No.5630 of 2000 (SV.P.N.S.S.Sivaramalingam v. Commissioner, Virudhunagar Municipality and Another) K.P.SIVASUBRAMANIAM, J, by order, dated 20.2.2001,



WEB COPY



W.P.(MD)No.10357 of 2025

while dealing with detailed development plan under Act 35 of 1972 has held that after publishing the said plan on 23.5.1984, the property ear-marked for the purpose has not been utilized in terms of Notification and no steps have been taken by the authority to acquire the property and therefore, as per Section 38 of the Tamil Nadu Town and Country Planning Act 1971, the property is deemed to be released from such reservation, allotment or designation. The same view was subsequently, followed by P.D.DINAKARAN, J in W.P.No.12105 of 2003 (R.Jeyapal V. Sattur Municipality rep. by its Commissioner, Sattur and Another) in the order, dated 3.3.2004.”

The same view was taken by this court in the subsequent judgment reported in CDJ 2017 MHC 2551.

11.In the case on hand, it is specifically stated by the petitioner that the Siruthur Detailed Development Plan Part III was published in the year 1999. However, the acquisition proceedings are not completed within the stipulated time of three years. Hence, the reservation made under the detailed development plan lapses by operation of Section 38(2) of the Act.

12.In view of the categorical admission made by the respondents that the land in question has not been acquired so far, as per section 38 of the Act, keeping in mind the provisions of the Act and the consistent view taken by this court in the decisions referred supra, I am of the considered opinion that the petitioner is entitled to succeed in this writ petition.

13.In the result, the writ petition is allowed. The respondents are directed to release the petitioner's land, situated in survey No.24/2C, Ward No.25, Sirudhur Village, Madurai North Taluk, Madurai in the Sirudhur detailed development plan part (III) by passing a specific order within a period of two weeks from the date of receipt of the order copy and communicate the same to the petitioner. No costs.



WEB COPY



W.P.(MD)No.10357 of 2025

8. From the pleadings and the materials as disclosed in the writ petitions, this Court is of the view that the above decision of the learned Judge of this Court can be squarely applied to the factual matrix of the present case and therefore, the present writ petitions are liable to be allowed.

9. In view of the above, these writ petitions are allowed and it is declared that the reservation made in respect of the petitioners' respective lands, comprised in Survey Nos.24/2B, 24/3B, 24/3C, 31/1 and 32/2, measuring an extent of 6 Acres and 71 Cents and the land comprised in Survey No.29, measuring an extent of 6 Acres and 81 Cents, situated at Sirudhur Village, Madurai North Taluk, Madurai, for Sirudhur Detailed Development Plan Part (III) is deemed to have lapsed in the light of Section 38 of the Act. No costs.”

3. In view of the above decision, this Writ Petition is allowed and it is declared that reservation area shown for D-D and D1-D1 Road situated in S.No.257/1C and S.No.257/4B at Keelanatham Village, Palayamkottai Taluk, Tirunelveli District in the “Keelanatham Detailed Development Plan No.5” published on 25.05.2018 is deemed to have lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. There shall be no order as to costs.

21.04.2025

Index : Yes / No
NCC : Yes / No



W.P.(MD)No.10357 of 2025

WEB COPY

1. The Director,
Directorate of Town and Country Planning,
2nd, 3rd, and 4th Floor,
C and E Market Road,
Koyembedu, Chennai.
2. The Joint Director,
Town and Country Planning,
Tirunelveli City Municipal Corporation,
Tirunelveli
3. The Commissioner,
Tirunelveli City Municipal Corporation,
Tirunelveli.



WEB COPY



W.P.(MD)No.10357 of 2025

VIVEK KUMAR SINGH, J.

Sm

W.P.(MD) No.10357 of 2025

21.04.2025