



W.P(MD)No.13782 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.13782 of 2025

J.Ramasamy

... Petitioner

VS.

1. The District Commissioner,
Directorate of Town & Country Planning,
Chepauk,
Chennai – 600 006.

2. The Member Secretary / Joint Director,
Tirunelveli Local Planning Authority,
Tirunelveli – 627 005.

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

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, to declare the reservation made in respect of petitioner's land to an extent of 70 cents situated at T.S.No.26/3, (Old S.No.141 subdivided into S.No.141/1B2) Block-15, Ward-BR, V.M.Chatiram Village, Palayamkottai Panchayat Union, Palayamkotai Taluk, Tirunelveli District, in the “Tirunelveli V.M.Chatram Extension and Development Plan No.9” as lapsed and deemed to be released as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.



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W.P(MD)No.13782 of 2025

For Petitioner : Mr.S.Srikanth
For R-1 & 2 : Mr.R.Ragavendran
Government Advocate
For R-3 : Mr.S.Sivanupandian

ORDER

This writ petition has been filed for Writ of Declaration, the reservation made in respect of petitioner's land to an extent of 70 cents situate at T.S.No.26/3, (Old S.No.141 subdivided into S.No.141/1B2) Block-15, Ward-BR, V.M.Chatiram Village, Palayamkottai Panchayat Union, Palayamkotai Taluk, Tirunelveli District, in the “Tirunelveli V.M.Chatram Extension and Development Plan No.9” as lapsed and deemed to be released as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.

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

3. The petitioner purchased the property in T.S.No.26/3, (Old S.No.141 subdivided into S.No.141/1B2) Block-15, Ward-BR, V.M.Chatiram Village, Palayamkottai Panchayat Union, Palayamkotai Taluk, Tirunelveli District to an extent of 70 cents, by registered sale deed dated 30.09.2024 vide Document No.

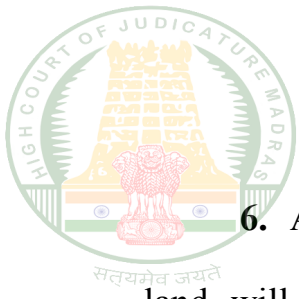


6875 of 2024. After purchase, the petitioner is in possession and enjoyment of the subject property.

4. When the petitioner intended to develop the subject property, the third respondent informed that the subject property has been shown as park in V.M. Chatram Extension Development Plan – 9. However, sofar the said property has not been acquired for development of park. The aforesaid plan was issued in the year 2001. Even after lapse of 23 years, the respondents failed to acquire the subject property.

5. It is relevant to extract the provision under Section 38 of Tamil Nadu Town and Country Planning Act, 1971, 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.”*

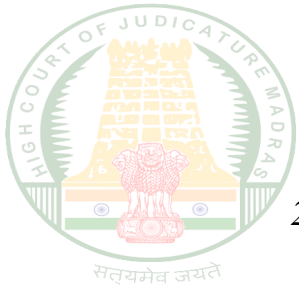


6. Accordingly, if a particular land is not acquired by the agreement, such land will be deemed to be released from such reservation or allotment or designation. In spite of the aforesaid plan was issued in the year 2001 itself, there is no acquisition so far in respect of the subject property by the authorities concerned for the purpose of park.

7. This issue has already been dealt with by the Hon'ble Division Bench of this Court recently in ***WA.(MD)No.485 of 2020*** by judgment dated ***21.07.2020***, wherein it was held that the scheme itself is lapsed by virtue of Section 38 of Tamil Nadu Town and Country Planning Act, 1971, and the relevant portion of the judgment is 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 W.A.(MD)No.340 of 2020, against the order dated 27.02.2017 in W.P.(MD)No.14456 of



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2014 was also dismissed on 02.03.2020.”

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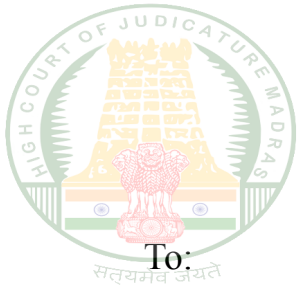
8. The above judgment is squarely applicable to the case on hand, since the subject property was notified under Section 37 of Tamil Nadu Town and Country Planning Act, 1971 in the year 2001 and thereafter, the respondents did not take any steps to acquire the subject property even till today.

9. In view of the above, the subject property in T.S.No.26/3, (Old S.No.141 subdivided into S.No.141/1B2) Block-15, Ward-BR, V..M.Chatiram Village, Palayamkottai Panchayat Union, Palayamkotai Taluk, Tirunelveli District, is declared as lapsed in light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and this writ petition is allowed. No costs.

10.06.2025

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

jbr



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To:

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S.SRIMATHY, J.

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ORDER MADE IN
W.P(MD)No.13782 of 2025

DATED : 10.06.2025