



W.P.(MD)No.27104 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.01.2025

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.27104 of 2024

and

W.M.P.(MD)No.23008 of 2024

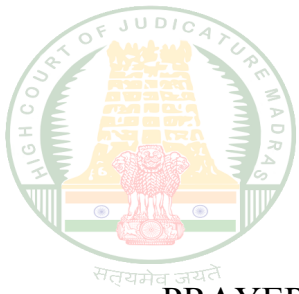
St.Anne's College of Nursing & Hospital,
represented by its Administrators,
Ms.Renitta,
D/o.Ouseph,
No.63-47, St.Anne's Home,
Kandasampuram,
Thoothukudi – 628 002.

... Petitioner

Vs.

1. The Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai.
2. The Director of Town and Country Planning,
C & E, Market Road,
Koyambedu, Chennai – 600 107.
3. The Tahsildar,
Thoothukudi Taluk,
Thoothukudi.

... Respondents



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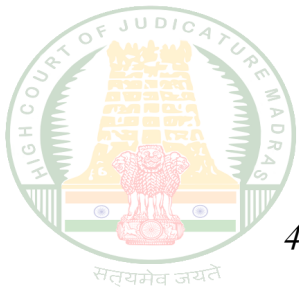
PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the Director of Town and Country Planning Authority, the first respondent and other respondents to declare that the petitioner's land of an extent of 15721 square meter situated in T.S.No. 4682/1A, 4682/1B, 4682/1C & 4682/2 situated at Ward 4, Block 40, Thoothukudi Corporation is deemed to be released from the reservation under Section 38 of Town and Country Planning Act and consequently, to direct the respondents to pass appropriate orders for release of petitioner's land comprised in T.S.No.4682/1A, 4682/1B, 4682/1C & 4682/2 situated at Ward 4, Block 40, Thoothukudi Corporation by considering the representation dated 23.08.2024 of the petitioner.

For Petitioner : Mr.S.Siva Thilakar
For R-1 & R-2 : Mr.D.S.Neduncheliyan
Government Advocate
For R-3 : Mr.T.Amjad Khan

ORDER

The prayer in the Writ Petition reads as follows:-

“Writ of Mandamus, to direct the Director of Town and Country Planning Authority, the first respondent and other respondents to declare that the petitioner's land of an extent of 15721 square meter situated in T.S.No. 4682/1A, 4682/1B, 4682/1C & 4682/2 situated at Ward



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4, Block 40, Thoothukudi Corporation is deemed to be released from the reservation under Section 38 of Town and Country Planning Act and consequently, to direct the respondents to pass appropriate orders for release of petitioner's land comprised in T.S.No.4682/1A, 4682/1B, 4682/1C & 4682/2 situated at Ward 4, Block 40, Thoothukudi Corporation by considering the representation dated 23.08.2024 of the petitioner.”

2. Heard the learned Counsel on either side and carefully perused the entire materials available on record.

3. The petitioner is the owner of the petition mentioned property. While this being so, the subject property was earmarked for Detailed Development Plan, in the year 2011 and the petitioner was orally informed that the above said plan was published in Tamil Nadu Government Gazette dated on 25.03.2011. However, the respondents have not acquired the subject property till date. Hence, this writ petition came to be filed.

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



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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.

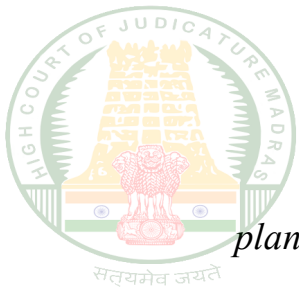
(3) On the publication of such declaration, the Collector of the district within whose jurisdiction the land is situate, shall proceed to take order for the acquisition of such land under the said Act; and the provisions of that Act shall, so far as may be, apply to the acquisition of the said land with 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 or designated for any purpose specified in a regional plan, master



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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.”

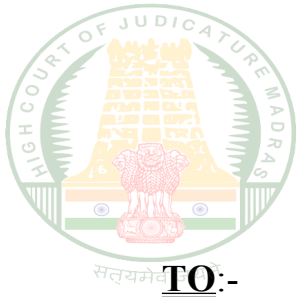
5. Fully fortified by the aforesaid order, this Court is of the considered view that the land belonging to the petitioner has not been acquired so far, within the mandatory period as required by Sections 37 and 38 of the Tamil Nadu Town and Country Planning Act, 1971. Such land shall be deemed to be released from such reservation. The respondents shall release the land of the petitioner, if no such notification is issued so far.

6. The Writ Petition is disposed of with the above direction. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.01.2025

NCC : Yes / No
Index : Yes / No

jbr



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TO:-
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Housing and Urban Development Department,
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Chennai.
2. The Director of Town and Country Planing,
C & E, Market Road,
Koyambedu, Chennai – 600 107.
3. The Tahsildar,
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L.VICTORIA GOWRI, J.

jbr

Order made in
W.P.(MD)No.27104 of 2024

Dated
07.01.2025