



W.P.(MD)No.31059 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **09.01.2025**

CORAM:

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

W.P.(MD)No.31059 of 2024

Gangalakshmi

... Petitioner

Vs.

1.The Director,
Town and Country Planning,
No.807, Annasalai,
Chennai-600 002.

2.The Member Secretary,
Madurai Local Planning Authority,
Corporation Office Building,
Anna Maligai, 3rd Floor,
Madurai-625 002.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to release the petitioner's land with an extent of 11 cents which is situated in Town Survey Number 16/5 (Resurvey No.9/8), Ward No.23, Block 3, Kokkalappi, Madurai West Taluk, Madurai District earmarked for “Kokkalappi Detailed Development Plan No.2” by treating the “Kokkalappi Detailed Development Plan No.2” as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.



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For Petitioner : Mr.R.Karunanidhi
For Respondents : Mr.D.S.Neduncheliyan
Government Advocate

ORDER

The prayer in the Writ Petition reads as follows:-

“To direct the respondents to release the petitioner's land with an extent of 11 cents which is situated in Town Survey Number 16/5 (Resurvey No.9/8), Ward No.23, Block 3, Kokkalappi, Madurai West Taluk, Madurai District earmarked for “Kokkalappi Detailed Development Plan No.2” by treating the “Kokkalappi Detailed Development Plan No.2” as lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.”

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

3.The petitioner's mother, namely, Lakshmi, W/o. Raghavan, has executed a settlement deed in favour of the petitioner vide registered document No.3074 of 2018 dated 30.07.2018 for the property with an extent of 40 cents situated in Town Survey Nos.16/5 (Resurvey No.9/8), Ward No.23, Block 3, Kokkalappi, Madurai West Taluk, Madurai District. Subsequently, the



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petitioner got patta in his name on 20.12.2019. In these circumstances, the petitioner has approached the 2nd respondent office on 16.10.2024 to regularise the petitioner's land property. The 2nd respondent office officials had informed the petitioner that the petitioner's land property has been earmarked under the scheme named “Kokkalappi Detailed Development Plan No. 2”. Hence, they cannot regularize the petitioner's land property. In furtherance to the same, the petitioner has given a representation, requesting to release the petitioner's land property from the “ Kokkalappi Detailed Development Plan No.2”. However, the same was not acted upon. Hence, the present 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 extracted as follows:-

“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



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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:

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



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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 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,



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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. The Writ Petition is disposed of with the above direction. There shall be no order as to costs.

09.01.2025

NCC : Yes / No
Index : Yes / No
Sml

TO:-

- 1.The Director,
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- 2.The Member Secretary,
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Corporation Office Building,
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L.VICTORIA GOWRI, J.

Sml

Order made in
W.P.(MD)No.31059 of 2024

Dated
09.01.2025