



W.P.(MD).No.31502 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.31502 of 2024

and

W.M.P.(MD)No.26371 of 2024

1. P.Sudarkodi

2. P.Suryaprakash

... Petitioners

Vs.

1.The Director of Town and Country
Planning, Office of the Directorate of
Town and Country Planning,
Second, Third and Fourth Floor,
E and C Market Road,
Koyambedu,
Chennai – 600 107.

2.The Member Secretary,
Madurai Local Planning Authority,
Sector -6, Anaiyur,
Mudakkathan Main Road,
Koodalpudur,
Madurai-17.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration to declare the reservation made in respect of the petitioner's land in Old Survey No.236/1, UDR Survey No.95/1, New Survey No.95/1A with an extent of 25 cents in the middle portion situates in Siruthur Village, Madurai North Taluk, Madurai District, under Siruthur Detailed Development Plan Part - VI is deemed to be lapsed and released from the reservation in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 1974).

For Petitioner : Mr.P.Gunasekaran

For Respondents : Mr.S.Kameswaran,
Government Advocate

ORDER

By consent of both the parties, this writ petition is taken up for final hearing at the admission stage itself.

2. This writ petition is filed to declare the reservation made in respect of the petitioner's land in Old Survey No.236/1, UDR Survey No.95/1, New Survey No.95/1A with an extent of 25 cents in the middle portion situates in Siruthur Village, Madurai North Taluk, Madurai District, under Siruthur Detailed Development Plan Part - VI is deemed to be lapsed and released from



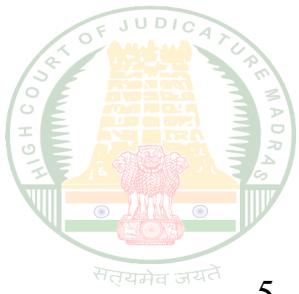
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the reservation in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 1974).

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

4. The petitioners' mother and three others are the owner of the subject property by way of registered will dated 27.08.1958 vide document No. 6524/2024. The petitioner's mother died on 29.04.2008 and their father namely , Pitchai, also died on 27.01.2012. Thereafter, the petitioners have become the owner of the above mentioned property. While this being so, the subject property was earmarked for Detailed Development Plan, in the year 1998 and the petitioners have not initiated any proceedings and acquired the said land under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. However, the respondents have not acquired the subject property till date. Hence, this writ petition came to be filed.



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5. 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 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.



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(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 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~



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(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."

6. Fully fortified by the aforesaid order, this Court is of the considered view that the land belonging to the petitioners 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.

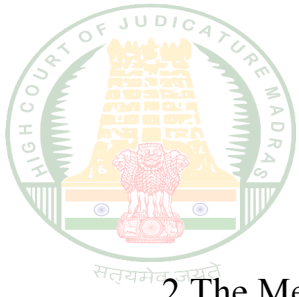
7. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

06.01.2025

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

To

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L.VICTORIA GOWRI, J.

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