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W.P.No.28783 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28783 of 2023

And

W.M.P.Nos.28390 and 28391 of 2023

D.Kamalam

... Petitioner

Vs.

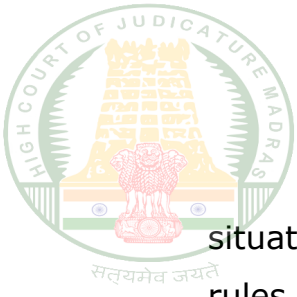
1.The Commissioner,
Directorate of Town and Country Planning,
2nd, 3rd and 4th Floor, C&E Market Road,
Koyambedu,
Chennai – 600 107.

2.The Deputy Director of Town and Country Planning,
Department of Town and Country Planning Office,
Chennimalai Road,
Erode – 638 002.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent dated 25.07.2023 bearing reference number SWP/BPA/011063/2023/TCP and quash the same and consequently direct the second respondent to consider the planning permission application dated 26.06.2023 submitted by the petitioner for the proposed construction, over the property measuring an extent of 55.30 cents in Survey number 286/2A and 81.51 cents in Survey No.286/3A,



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situated at Erode Village, Erode Taluk and District in accordance with rules and norms of the Tamil Nadu Town and Country Planning Act and grant approval for the same.

For Petitioner : Mr.Ganesan OLV
for M/s.Ganesh and Ganesh
For Respondents : Mr.P.Siddarth
Government Counsel

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent dated 25.07.2023 bearing reference number SWP/BPA/011063/2023/TCP and quash the same and consequently direct the second respondent to consider the planning permission application dated 26.06.2023 submitted by the petitioner for the proposed construction, over the property measuring an extent of 55.30 cents in Survey number 286/2A and 81.51 cents in Survey No.286/3A, situated at Erode Village, Erode Taluk and District in accordance with rules and norms of the Tamil Nadu Town and Country Planning Act and grant approval for the same.

2.The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the subject property. The petitioner



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purchased the property in Survey number 286/2A vide public auction held on 16.10.2008 and the same was confirmed on 16.12.2008 in E.P.No.93/2008 of O.S.No.450/2007. The petitioner purchased the property in Survey number 286/3A vide sale deed dated 06.09.2006 registered as document number 3960/2006. The patta for the subject property stands in the name of the petitioner. The petitioner submitted online application dated 26.06.2023 for the purpose of planning permission relating to the proposed construction of RCC roof and galvanized iron sheet roof (Apparel Making) in the subject property and the same was rejected by the second respondent stating that 'The Existing Building lies on Proposed Detailed Development plan Proposed Road Hence this proposal Rejected'.

3.The learned counsel appearing for the petitioner further submitted that the second respondent rejected the petitioner's application since detailed development plan no.21 of Erode local planning area having reference number D.D.P (SR)/DTCP.No.153/94 has been approved under Section 29 of the Town and Country Plan Act, 1971. The learned counsel further submitted that the said plan has to be implemented within three years by acquiring land and if the same was not implemented within three years, it will lapse and further



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submitted that since the said plan was not implemented in accordance with the Town and Country Plan Act, it got lapsed and hence the impugned order is not sustainable one.

4.In support of his contentions, the learned counsel appearing for the petitioner relied upon the decision of the Hon'ble Division Bench of the Madurai Bench of this Court in ***W.A. (MD)No.485 of 2020 [The Director, Town and Country Planning, No.807, Annasalai, Chennai – 2 and another Vs. Muthu Velayutham @ R.Kannan and three others]*** dated ***21.07.2020*** and submitted that once the three years period is lost within the meaning of Section 37(2) proviso thereafter, Section 38 can very well be pressed in service and ultimately the land is deemed to be released from such reservation, allotment or designation and hence the impugned order is not sustainable one.

5.The learned Government Counsel appearing for the respondents submitted that since the petitioner's proposed construction was Veerappanchatram DD plan no.21 which was consented by Commissioner of Town and Country Planning as Map No.3 and numbered as DDP(SR)/DTCP No.153/1994. Part of



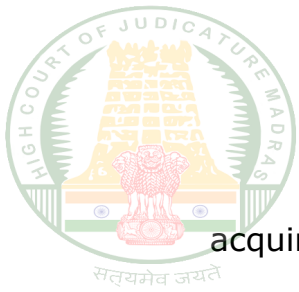
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petitioner's land which was submitted for industrial building have been earmarked for Proposed 'E2E2'-9.15m wide Extra Widening road and Proposed 'E3E3'-9.15m wide road. Since the Proposed Detailed development plan roads are very essential for city development, the petitioner's application was rejected.

6.Heard both sides and perused the materials available on record.

7.The petitioner submitted online application dated 26.06.2023 for the purpose of planning permission relating to the proposed construction of RCC roof and galvanized iron sheet roof (Apparel Making) in the subject property and the same was rejected by the second respondent on the ground that the proposed construction was covered by the Veerappanchatram DD plan no.21 which was consented by Commissioner of Town and Country Planning as Map No.3 and numbered as DDP(SR)/DTCP No.153/1994.

8.It is the contention of the learned counsel appearing for the petitioner that in terms of Section 38 of the Town and Country Plan Act, 1971, there is deem release of the property, in the event of not



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acquiring the lands within the stipulated time of three years as per the provision of Section 37(2) of the Town and Country Plan Act, 1971.

9. Similar issue was considered by the Hon'ble Division Bench of the Madurai Bench of this Court in ***W.A.(MD)No.485 of 2020 [The Director, Town and Country Planning, No.807, Annasalai, Chennai – 2 and another Vs. Muthu Velayutham @ R.Kannan and three others] dated 21.07.2020***, and it is useful to extract the relevant portion of the said decision hereunder:

*"10. It is relevant to extract hereunder paragraph No.23 of the decision reported in **2017(1) CTC 175 (S.Anand Vs. the Secretary, Housing and Urban Development and others)**:*

"23. In view of the plethora of decisions of this Court as has been quoted above, the law is well settled in this regard as the issue raised in the writ petition is no more res integra. Once the three years period is lost within the meaning of Section 37(2) proviso thereafter, Section 38 can very well be pressed in service and ultimately the land is deemed to



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be released from such reservation, allotment or designation. Therefore, in view of the legal provisions as well as the categorical decisions made by this Court, this Court has no hesitation to hold that the petitioner's land as claimed in this writ petition, shall deemed to be released from such reservation or allotment or designation under Section 38 of the Act and therefore, the petitioner will succeed in the writ petition."

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



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*record for the reason assigned by the learned
Single Judge for allowing the writ petition and
finds that the writ appeal lacks merits."*

10.In view of the decision cited supra, the order impugned in this writ petition is set aside and the matter is remanded back to the the second respondent for fresh consideration. The second respondent is directed to consider the planning permission application dated 26.06.2023 submitted by the petitioner for the proposed construction, over the property measuring an extent of 55.30 cents in Survey number 286/2A and 81.51 cents in Survey No.286/3A, situated at Erode Village, Erode Taluk and District, without referring to the earlier master plan and pass fresh orders within a period of four weeks from the date of receipt of a copy of this order.

11.The writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

09.06.2026

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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To

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Directorate of Town and Country Planning,
2nd, 3rd and 4th Floor, C&E Market Road,
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Chennai – 600 107.
- 2.The Deputy Director of Town and Country Planning,
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M.DHANDAPANI,J.
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