



W.P.(MD).No.2905 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.2905 of 2022

and

W.M.P(MD).No.2538 of 2022

1.D.S.Balachandran

... Petitioner

Vs.

1.The Director,
The Directorate of Town and Country Planning,
807, Anna Salai,
Chennai – 600002.

2.The Deputy Director,
Town and Country Planning,
Madurai Region,
4, Hakkim Ajmalkhan Road,
Chinna Chokkikulam,
Madurai – 625002.

3.Member-Secretary,
Dindigul Local Planning Authority,
D.No.14,
Vivekanandar Nagar,
Dindigul – 624001.

4.Dindigul City Municipal Corporation,
Represented by its Commissioner,
Dindigul.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Declaration, that the petitioner's land to an extent of 1 acre and 44 cent situated in Survey No.579/6 in Palamarathupatti, Thottanoothu Village, Dindigul East Taluk, Dindigul District forming part of the Dindigul Local Planning Area, Thottanoothu Detailed Development Plan No.2, as notified by Dindigul Local Planning Authority, the third respondent as per notification No.I dated 31.01.2005 in R.O.C.No.954 of 2004 had lapsed in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (TN Act 35 of 1974) and for other suitable orders.

For Petitioner : Mr.N.L.Rajesh,
Senior Counsel
for M/s.Benazir Begum

For R1 to R3 : M/s.D.Farjana Ghoushia,
Special Government Pleader

For R4 : Mr.J.Lawrence,
Standing Counsel

ORDER

The present Writ Petition has been filed seeking a declaration that the notification issued in respect of the petitioner's land under Notification No.I dated 31.01.2005 in R.O.C.No.954 of 2004 has lapsed, in the light of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971.



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2. The learned Senior Counsel appearing for the petitioner submitted that the petitioner's land, measuring an extent of 1 acre and 44 cents in Survey No.579/6, situated at Palamarathupatti, Thottanoothu Village, Dindigul East Taluk, Dindigul District, forms part of the Dindigul Local Planning Area under the Thottanoothu Detailed Development Plan No.2, as notified by the Dindigul Local Planning Authority, the third respondent, vide Notification No.I dated 31.01.2005 in R.O.C.No.954 of 2004.

3. It is contended that as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, if the land is not acquired within a period of three years from the date of publication of the notification, the reservation shall be deemed to have lapsed and the land shall revert to the owner. In support of his submissions, the learned Senior Counsel placed reliance on the judgment of the Hon'ble Supreme Court reported in (2010) 9 SCC 344 and the decision of this Court reported in (2022) 6 MLJ 416, wherein the above principle has been reiterated following the judgment of the Hon'ble Supreme Court.



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4. The learned counsel appearing for the respondents, relying upon the counter affidavit, contended that in-principle approval had been granted for classifying the land as a scheme road for public use. However, it is admitted that the land continues to remain vacant and that no acquisition proceedings have been initiated till date. Paragraph No.3 of the counter affidavit is extracted hereunder:

“ I respectfully submit that with regard to averments made in para 3 and 4 of the Affidavit, it is respectfully submitted that the lands in S.No.579/6 in have been classified as Dindigul Planning area, Thottanoothu Detailed Development Plan No.2 and subsequently the said survey Nos. have been classified as Scheme Road for the usage of Public. Even after granting In Principle Approval in respect of the said survey Nos., the Scheme road, are still now this land is vacant so retained as such. However, they have not been acquired.”

5. The Hon’ble Supreme Court, in the judgment reported in (2010) 9 SCC 344, in paragraphs 26 and 27, has held as follows:

26. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 runs as under:



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"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."

27. In view of the admitted position that the land is not acquired by agreement till the date of the judgment of the High Court, the deeming clause would certainly come into force and, therefore, the land concerned would certainly be deemed to have been released."

6. This Court, in the judgment reported in (2022) 6 MLJ 416, in paragraph 15, has held as follows:

"15. As per Section 38 of the said Act, if the lands are not acquired within the said period of 5 years, they should be deemed to be released from such reservation, allotment or designation. However, Government is at liberty to extend the



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period for such time, but not exceeding a period of 5 years. It is not the case of the respondent that the Government has extended the period for a further period of 5 years from 1997 onwards. Hence, it is clear that the acquisition proceedings have not been initiated within a period of 5 years from the date of Section 27 notification, they are deemed to have been released from the Detailed Development Plan.”

7. In view of the settled legal position that lands earmarked for formation of a scheme road under a development plan, if not acquired within a period of three years, shall be deemed to have lapsed under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, and in the light of the judgments cited *supra*, this Court is of the considered view that the reservation in respect of the petitioner’s land has lapsed.

8. Accordingly, this Writ Petition stands allowed as prayed for. No costs. Consequently, the connected miscellaneous petition is closed.

23.02.2026

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



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R.VIJAYAKUMAR,J.

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