



W.P(MD)No.29159 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

Writ Petition(MD)No.29159 of 2023

and

W.M.P(MD)No.25205 of 2023

1.K.N.M.Abbas
2.A.Mohamed Ishakhan

.. Petitioners

Vs

- 1.The Director,
Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.
- 2.The Assistant Director,
Theni District Town & Country Planning Office,
Door No.446/A, Ward -17, Nehruji Street,
Allinagaram, Theni 625 531,
Theni District.
- 3.The Member Secretary,
Local Planning Authority,
Cumbam Municipality,
Cumbam 625 516,
Theni District.
- 4.The Commissioner,
Cumbam Municipality,
Cumbam 625 516,
Theni District.

..Respondents



W.P(MD)No.29159 of 2023

WEB COPY

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 4th respondent herein in Na.Ka.No.2196/2023/F1 dated 16.11.2023 and quash the same and consequently direct the respondents herein to release the properties of petitioner covered by registered sale deed dated 1.4.2021 vide Doc. No.2102 of 2021 and registered sale deed dated 12.04.2021 vide Doc. No.2254/2021 within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.K.Appadurai

For Respondent : Mr.D.Sadiqraja
Addl. Govt. Pleader for RR1 to 3
Mr.Hemakarthiskeyan
Standing Counsel for R4

ORDER

The first petitioner claims to be the absolute owner of an extent of 30 cents of land, equivalent to 2,973.5 square feet, in Survey No. 2173, Uthamapuram Village, Cumbum, Uthamapalayam Taluk, Theni District, by virtue of a registered sale deed dated 01.04.2021. The second petitioner claims to be the owner of an extent of 3,935.25 square feet in Survey No. 2173/2, situated in the same locality, namely Ward No. 11, Cumbum Mettu Colony, Cumbum Town, Ward A, Block 22, comprised in T.S. No. 5/4.



W.P(MD)No.29159 of 2023

2.The petitioners submitted applications seeking regularisation of the said plots. The applications were rejected on the ground that the subject lands had been reserved for a Project Road in the Detailed Development Plan published on 23.11.1994. The petitioners contend that, as the subject lands were not acquired within the statutory period from the date of publication of the said plan, the reservation is deemed to have lapsed by operation of Section 38(b) of the Tamil Nadu Town and Country Planning Act, 1971.

3.Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 reads as follows:

“38. Release of land.—If within three years from the date of 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.”

4.In the present case, it is not in dispute that the subject lands were not acquired within the statutory period. Hence, by operation of Section 38(b) of the Act, the reservation of the lands for a project road in the Detailed Development Plan dated



W.P(MD)No.29159 of 2023

WEB COPY

23.11.1994 is deemed to have lapsed.

5. Accordingly, the impugned order dated 16.11.2023 issued by the fourth respondent is set aside. The subject lands are declared to have been released from the reservation, and the fourth respondent is directed to consider and regularise the petitioners' plots, subject to their satisfying all other eligibility criteria. The aforesaid exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

6. With the above directions, the writ petition stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

01.04.2026

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

To

1. The Director,
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4/6



W.P(MD)No.29159 of 2023

WEB COPY

Theni District.
3.The Member Secretary,
Local Planning Authority,
Cumbam Municipality,
Cumbam 625 516,
Theni District.

HEMANT CHANDANGOUDAR, J.

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W.P(MD)No.29159 of 2023

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