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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1422 of 2024

1.Prasanna Guru

2.Guru Prakash ... Petitioners

Vs.

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

2.The Member Secretary,
Tirunelveli Local Planning Authority,
Xavier Colony, South Outer Road,
Tirunelveli.

3.The Commissioner,
Tirunelveli Corporation,
Tirunelveli. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare that the reservation made in respect of the petitioners' land comprised in Ayan Punja Survey Nos.1050 and 1051 to an extent of 1.64 Acres at Kulavanigarpuram Village, Palayamkottai Taluk for the proposed Kulvanigarpuram Extension T.P.Scheme No.4 is lapsed in light of Section 38 of Tamil Nadu Town and Country Planning Act, 1971 (TNACT 35 of 1974).

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For Petitioners : Mr.V.Angusamy

For Respondents : Mr.N.GA.Nataraj,
Government Advocate for R1 & R2.
Mr.A.Sivanupandian,
Standing Counsel for R3.

ORDER

Heard both sides.

2.The petition mentioned lands were included for the purpose of scheme road in the detailed development plan published in the year 1972 (Kulavanigapuram Extension Town Planning Scheme No.4). It is quite possible that the detailed development plan was not issued under Tamil Nadu Act 35 of 1972. Even under the corresponding earlier statute, there was a requirement that the consequential steps must be taken within a specified period. Section 125 contains the repeal and saving clause. While repealing the earlier statute ie., Tamil Nadu Town Act, 1920, Section 125(2) states that any notification issued under the Old Act shall be deemed to have been taken under the corresponding provision of the New Act and shall continue to be in force accordingly. Therefore, Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 will have to be applied. It reads as follows:-

*"**38. Release of land.-** If within three years from the date of the publication of the notice in the Tamil Nadu Government Gazette under*

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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."

3.Admittedly, consequential steps have not been taken. In this view of the petitioner, the petitioners are entitled to the declaration as sought for. I declare that the reservation made in respect of the petition mentioned lands stands lapsed. The respondents are directed to make corresponding changes in all the relevant revenue records. This writ petition is allowed. No costs.

25.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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

2.The Member Secretary,
Tirunelveli Local Planning Authority,
Xavier Colony, South Outer Road,
Tirunelveli.

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G.R.SWAMINATHAN, J.

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