
(2004) 03 MAD CK 0117
In the Madras High Court
Case No : Writ Petition No. 12105 of 2003

R. Jeyapal

APPELLANT

Vs

Sattur Municipality

RESPONDENT

Date of Decision : 03-03-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) WritLR 779

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : D. Rajagopal, for the Appellant; V. Subbarayan, Special Government Pleader, for the Respondent

Judgement

P.D. Dinakaran, J.—When the petitioner submits a plan for approval to the first respondent for constructing shopping complex in

S.No.177/5 at Sattur Village, Virudhunagar District, the same was rejected by the first respondent in his proceedings dated 27.01.2003.

2. Aggrieved by the proceedings of the first respondent dated 27.01.2003, the petitioner has filed this writ petition for issuance of a Writ of

Certiorarified Mandamus, to call for the records and to quash the same and also for a direction to the first respondent to grant planning permission

to the petitioner.

3. Mr. D. Rajagopal, learned counsel appearing for the petitioner contends that the refusal of approval for construction of the shopping complex by

the first respondent in the impugned proceedings is illegal and arbitrary in view of Section 38 of the Tamil Nadu Town and Country Planning Act

(hereinafter referred to as "the Act")

4. According to learned counsel for the petitioner, in the instant case, even

though there was a master plan, proposed to be approved by the second respondent, the lands which are covered under the scheme for formation of the scheme road are not acquired by any competent authority within a period of three years from the date of publication of the scheme and therefore the impugned proceedings are liable to be quashed.

5. For better appreciation, Section 38 of the Act reads as follows:-

Release of land:- If within three years from the date of the publication of the notice in the Tamil Nadu Government Gazette u/s 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"".

6. Concededly, in the instant case, the respondents have not acquired the lands for the formation of the scheme road till date and therefore, the

lands in question are deemed to be released from the reservation of the scheme road. Consequently, there cannot be any lawful objection for

granting approval to the plan for constructing shopping complex in S.No.177/5 at Sattur Village, Virudhunagar District.

7. Mr. V. Subbarayan, learned Special Government Pleader placing reliance on the proceedings of the Commissioner of Town and Country

Planning, Chennai dated 02.03.2004 addressed to the Commissioner, Sathur Municipality / first respondent herein fairly submits that the

Commissioner of Town and Country Planning, Chennai has already given clearance to the first respondent municipality for sanctioning the plan as

the land in question got released from the scheme and undertakes that the first respondent municipality shall pass appropriate orders, approving the

building permission sought for by the petitioner.

8. Therefore, except to record the statement of Mr. V. Subbarayan, learned Special Government for the respondents and to direct the first

respondent to grant planning permission to the petitioner, no further orders are necessary in this writ petition.

9. The writ petition is disposed of accordingly. No costs.