



WEB COPY

WP.No.3393 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

CORAM:

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.3393 of 2011

and

MP.Nos.1 & 2 of 2011

1. Mr. S. Ali Ispahani (Deceased)
2. Mr. S. Mehdi Ispahani
3. Ranjini Ispahani
4. Firuzeh Ispahani

...Petitioners

(P3 and P4 are substituted as LRS of Deceased 1st Petitioner
as per order dated 13.02.2025 in WMP.No.31768 of 2022
and WMP.No.31771 of 2022 in W.P.No.3393 of 2011 by JSNPJ)

-Vs-

The Member Secretary,
Chennai Metropolitan Development Authority,
No. 1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned letter issued by the Respondent in letter No. BC1/2423/2010 dated 02.08.2010, quash the same and to direct the Respondent to issue the Planning Permission based on the application submitted by the Petitioners on 11.02.2010 without insisting to handover the area earmarked for street alignment as shown in the sketch



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through a Registered Gift Deed to C.M.D.A. or Local Body and pass.

For Petitioners : Mr. T.R Rajagopalan
Senior Counsel for
A.E. Ravichandran

For Respondent : Mr. Akhil Akbar Ali
Standing Counsel

ORDER

This writ petition has been filed the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned letter issued by the Respondent in letter No. BC1/2423/2010 dated 02.08.2010, quash the same and to direct the Respondent to issue the Planning Permission based on the application submitted by the Petitioners on 11.02.2010 without insisting to handover the area earmarked for street alignment as shown in the sketch through a Registered Gift Deed to C.M.D.A. or Local Body.

2. The case of the Petitioners is that the 1st petitioner, S.Ali Ispahani and his brother, are joint owners of the property situated at Door No. 35, Anna Salai, Chennai – 600 002. They applied for planning permission on 11.02.2010 to construct a commercial office building on the said property. In response, the



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Chennai Metropolitan Development Authority (CMDA) issued a letter dated 02.08.2010 directing the petitioners to execute a Registered Gift Deed in favour of the CMDA or the local body for the portion of land earmarked for street alignment, as a precondition for granting planning permission. The petitioners have challenged this condition by filing a writ petition before the Hon'ble High Court.

3. Learned Counsel appearing for the petitioners submits that the CMDA's requirement to gift the land earmarked for street alignment without compensation is arbitrary, illegal, and ultra vires the Tamil Nadu Town and Country Planning Act. He argues that such a direction violates Sections 36 to 39 of the Act, which mandate acquisition through due legal process and payment of compensation. He asserts that Regulation 26(22) of the Development Regulations, which forms the basis of CMDA's direction, is inconsistent with the parent Act and violates Article 19(1)(g) of the Constitution. He submits that the petitioners claim that their right to use and develop their property cannot be curtailed by compelling them to execute a Gift Deed, and that the doctrine of legitimate expectation entitles them to have their planning application processed



under law without such arbitrary conditions.

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4. Learned counsel for the petitioners placed reliance on the judgment of this Court in the batch of matters in **W.P.Nos.30905 of 2015 and connected cases (*P. Vijayakalyani vs. The State of Tamil Nadu and others*)** dated 05.06.2024.

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

6. It is appropriate to refer to the order of this Court, relied upon by the learned counsel for the petitioners, rendered in ***P. Vijayakalyani vs. The State of Tamil Nadu and others* (W.P. Nos. 30905 of 2015 and connected cases)**, dated 05.06.2024. In that case, when a similar plea was raised, the Hon'ble High Court has observed that:

3. The local authorities are not empowered to insist the land owners to execute a gift deed in violation of the provisions under law. If at all, the lands are required for formation of road or expansion of existing road, street, etc., land acquisition proceedings are to be instituted by following the due process and by settling compensation as contemplated under the land acquisition laws. Therefore, the authorities competent, in the event of taking a policy decision, to form street, road or expansion of road, is at liberty to initiate appropriate land acquisition proceedings by following due process of law. Contrarily, they cannot personally insist the land owners or any person to gift their land for road projects



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or any public projects.

4. It is made clear that the local authorities shall not personally emphasize or insist the land owners to gift the land in violation of law. If at all in the layout, roads are already earmarked and encroachments are identified, those encroachments can be removed by following the due process in the interest of public.”

7. In view of the above ratio laid down by this Court, the impugned letter issued by the Respondent in letter No.BC1/2423/2010 dated 02.08.2010 is hereby quashed and the Respondent is directed to issue the Planning Permission based on the application submitted by the Petitioners on 11.02.2010 without insisting to handover the area earmarked for street alignment as shown in the sketch through a Registered Gift Deed to C.M.D.A. or Local Body.

In the result, the **writ petition stands disposed of with the above observations and direction.** No costs. Consequently, connected miscellaneous petitions are closed.

21.07.2025

cda/smn

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No



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N.MALA, J.

cda/smn

To

The Member Secretary,
Chennai MetroPolitan Development Authority,
No. 1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

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