



WEB COPY

WP No. 3394 of 2011



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP No. 3394 of 2011

1.Mr.S.Ali Ispahani (deceased)

2.Mr.S.Mehdi Japahani

3.Ranjini Ispahani

4.Firuzeh Ispahani

[P2 to P4 are substituted as LR's of the deceased 1st Petitioner as per order dated 13.02.2025 in WMP.No.31775/2022 and WMP.No.31782/2022 in WP.No.3394/2011]

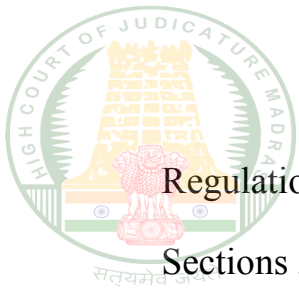
Petitioner(s)

Vs

The Member Secretary,
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road,
Egmore Chennai-8.

Respondent(s)

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 Declaration, to declare the sub Regulation for Chennai Metropolitan Area 2026 i.e., the Second Master Plan for Chennai Metropolitan Area 2026-Volume II-Development



Regulations as unconstitutional, null and void and ultravires the provisions of Sections 36-39 of Chapter IV of Tamil Nadu Town and Country Planning Act, .

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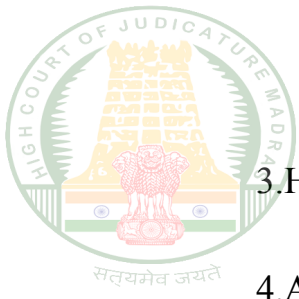
For Petitioner(s): M/s.A.E.Ravichandran

For Respondent: Mr.Akhil Akbar Ali, Standing
counsel

ORDER

Today, the above writ petition is listed under the caption "For Clarification" at the instance of the Court.

2.This Court, vide order dated 21.07.2025, had disposed of the above writ petition. However, upon perusal of the order, this Court entertained a doubt as to how the II Master Plan for Chennai Metropolitan Area 2026-Volume II-Development Regulations, be declared as unconstitutional, null and void and ultra vires the provisions of Sections 36 to 39 of the Town and Country Planning Act, 1971, in the light of judgment dated 05.06.2024 rendered in ***P.Vijayakalyani Vs. The State of Tamil Nadu and Others [WP.No.30905/2015 etc., batch]***. Accordingly, the Registry was directed to list the matter today under the caption "For Clarification".



3. Heard both sides and perused the materials placed on record.

4. Accordingly, the above writ petition is disposed of in the following

manner:-

"This writ petition has been filed for issuance of a Writ of Declaration, to declare the Sub-Regulation for Chennai Metropolitan Area 2026 i.e. The Second Master Plan for Chennai Metropolitan Area 2026 – Volume II – Development Regulations as unconstitutional, null and void and ultravires the provisions of Section 36-39 of Chapter IV of Tamil Nadu Town and Country Planning Act.

2. The case of the Petitioner is 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 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



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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.

4.However, in the light of the judgment of this Court in a batch of matters titled ***P. Vijayakalyani vs. The State of Tamil Nadu and others*** (W.P. Nos. 30905 of 2015 and **connected cases**), dated 05.06.2024, the learned counsel for the petitioner submitted that the prayer for declaration that Sections 36 to 39 of Chapter IV of the Town and



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Country Planning Act, 1971, is ultra vires, null and void and unconstitutional, is given up and that it would suffice to dispose of the writ petition by recording the observations made in the said writ petition.

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 or any public projects.

- 1. 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*



WEB COPY

WP No. 3394 of 2011



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.”

In the result, the writ petition stands disposed of with the above observations. No costs."

13-08-2025

AP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Member Secretary,
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road,
Egmore Chennai-8.



WEB COPY

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N.MALA J.

AP

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