

W.P.Nos.1183 & 6888 of 2026

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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Reserved On:  
26.02.2026

Pronounced On:  
24.04.2026

CORAM

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.Nos.1183 & 6888 of 2026

and

W.M.P.Nos.1384, 1387 & 1388 of 2026

**W.P.No.1183 of 2026:**

1.S.Mehdi Ispahani

2.Ranjini Ispahani

3.Firuzeh Ispahani

.. Petitioners

Petitioners 1 to 3 are represented by  
their Power Agent Mr.P.Kesan

**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 to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned letter dated 25.11.2025 of the respondent under file No:CMDA/PP/NHRB/N/0161/2025 and quash the same as illegal in so far as the condition of execution of gift deed for street



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alignment is concerned and consequently direct the respondent to issue Planning Permission in pursuant to the application submitted by the petitioners dated 11.03.2025.

For Petitioners : Mr.A.E.Ravichandran  
For Respondent : Mr.P.Kumaresan,  
Additional Advocate General  
Assisted by  
Mr.B.Sanjay Balachandran  
for CMDA

**W.P.No.6888 of 2026:**

R.Sabapathy

.. Petitioner

**Vs.**

1.The Additional Chief Secretary,  
Housing and Urban Development,  
Secretariat, Chennai.

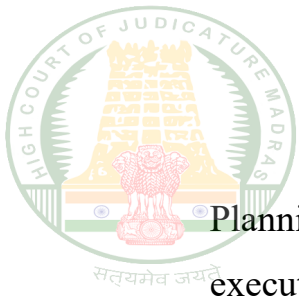
2.The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu Natarajan Building,  
Gandhi Irwin Road,  
Egmore, Chennai – 600 008.

3.The Commissioner,  
Corporation of Chennai,  
Ripon Buildings,  
Chennai.

.. Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider the application of the petitioner for Planning Permission vide SBC No.CMDA/PP/NHRB/S/0031/2026 dated 09.01.2026 and issue

2/32



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Planning Permission to his premises at Chennai without insisting to execute a registered Gift Deed Road in favour of competent authority.

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For Petitioner : Mr.S.Thiruvengadam  
For Respondents : Mr.P.Kumaresan, AAG  
Additional Advocate General  
Assisted by  
Mr.B.Sanjay Balachandran  
for CMDA

### **COMMON ORDER**

These two writ petitions present a common issue. Hence, they are disposed by way of this common order.

2.The issues that are presented are:

(i)Whether the Chennai Metropolitan Development Authority (hereinafter referred to as 'CMDA') can call upon an owner of a property to execute a gift deed for a portion of land that it proposes to reserve or already reserved under Section 36 of the Town and Country Planning Act, 1971 (hereinafter referred to as 'T & CP Act'), as a condition precedent for grant of planning permission?



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(ii) Whether Section 35-A of the T & CP Act empowers the planning authority to enforce such a claim?

3.I heard Mr.A.E.Ravichandran for the petitioners in W.P.No.1183 of 2026, Mr.S.Thiruvengadam for the petitioner in W.P.No.6888 of 2026 and Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.B.Sanjay Balachandran for CMDA representing respondents in both cases.

**Facts in W.P.No.6888 of 2026:-**

4.The petitioner claims that he is the absolute owner of the property situated at Door No.79/1 & 128, Velachery Main Road and Gulmohar Avenue, Velachery, Chennai – 600 032. He had purchased the same by way of registered sale deed dated 29.10.2025 from one M/s.Leo enterprises. The petitioner intends to put up a residential construction therein. In furtherance thereof, he made an application to the CMDA on 09.01.2026. CMDA responded to the said application on 20.01.2026. It had imposed several conditions for the grant of permission. One such condition is being impugned here. The condition being, street alignment portion is to be gifted to CMDA, before issuance of planning permission.



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5.The petitioner states that he has kept the area covered by the proposed road alignment free from any development. He adds he is willing to hand over the said area to the CMDA provided fair and reasonable compensation is paid for the same. He assures that he will file an affidavit of undertaking before the CMDA to the effect that he will not put up any construction in the area so reserved and would also execute a gift deed if just, fair and reasonable compensation is paid for the same.

6.He further points out that, till date, no notification reserving the area has been issued by the CMDA. Hence, he seeks a mandamus to direct the application for planning permission to be considered, without insisting upon a registered gift deed transferring his property, free of cost, in favour of CMDA.

**Facts in W.P.No.1183 of 2026:-**

7.The petitioners claim that they are the joint owners of the property situated in Door No.1, Purasaiwakkam High Road-Ritherdon Road, Chennai – 600 007. This property is comprised in Old Survey No.442, New Survey T.S.No.812/2, Block No.14, Ward No.01,



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Purasaiwakkam Village, Chennai. The extent of the property is 5 grounds and 69 sq.ft. The petitioners claim title to the property by virtue of a settlement deed executed in their favour on 31.03.1970. The settlement deed was for an extent of 12170 sq.ft, of which the petitioners had alienated 6170 sq.ft and retained the remaining extent of 6000 sq.ft.

8.In order to develop the property under their possession, the petitioners filed an application before the CMDA for sanction of a building plan. This application was made on 11.03.2025. The CMDA responded to this application on 20.04.2025, calling upon the petitioners to execute a gift deed for the land earmarked for street alignment, as a condition precedent for sanctioning of the building plan. This was in addition to the other conditions with, which we are not concerned, in this writ petition.

9.Insofar as execution of gift deed is concerned, the petitioners filed an affidavit of undertaking, dated 02.05.2025, stating that the portion earmarked for street alignment will be fully secured and no construction will be put up over the same nor will any third party interest be created. The petitioners further undertook that they will not object to



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the acquisition of the said land, as and when, it is required for widening purposes. The petitioners, yet again sent a reminder on 13.06.2025, requesting the respondents not to insist upon execution of a gift deed as a condition precedent for sanction of planning permission. They drew the attention of the respondents to a judgment of this Court in the case of ***P.Vijayakalyani Vs. The State of Tamil Nadu and others, W.P.No.30905 of 2015, dated 05.06.2024*** in support of their plea.

10.In response to this reminder, the petitioners were called upon to submit a revised plan, which they did so, along with receipt for payment of scrutiny fee. Despite such intimation, the respondents by the impugned letter, while imposing other conditions, directed as follows:-

*“The land left for street alignment shown in the site plan to be gifted before issue of Planning permission.”*

11.Aggrieved by the same, the petitioners are before this Court. This Court entertained the writ petitions and called upon the respondents to file a counter.



12.The 2<sup>nd</sup> respondent in W.P.No.6888 of 2026 filed a counter. The

counter states that as per the Second Master Plan for the Chennai Metropolitan Area (CMA), it has been decided that the street alignment would be 45 metres. The road width in front of the petitioner's site, varies between 14.95 metres and 15 metres. Therefore, the land to an extent of 15 metres on either side of the central line is required to be reserved and surrendered for the purpose of street alignment. It claims that the Second Master Plan has been approved by the State of Tamil Nadu on 02.09.2008 and came into operation in terms of Section 30 of the T & CP Act. It pleads that on such publication, street alignment of 45 metres for Velacherry Main Road becomes a binding statutory control regulating development. The counter further refers to the Development Control Rules for Madras Metropolitan Area, 1975 framed under Section 122 of the T & CP Act. Relying upon Rule 18(b) thereof, the counter urges that if the applicant, for development hands over the land belonging to him, he will be entitled to additional Floor Space Index to the extent of land so transferred.

13.It also points out that Rule 18(b) has been retained in the Development Regulations of 2008 and is the precursor of Rule 26(22)



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thereof. It refers to the latest statutory Rules, namely, the Tamil Nadu Combined Development and Building Rules, 2019 (TNCBDR, 2019), to urge that as per Rule 35(19), the space set apart and notified for formation of a new road or road widening or street alignment, should be transferred to the local body, through a registered gift deed, before actual issuance of building permit. The counter then refers to Section 35-A of the T & CP Act to point out that if any area is surrendered free of cost, the planning authority is entitled to give a Transferable Development Rights (TDR) in proportion to the land area surrendered.

14.Hence, the counter claims that the CMDA is entitled to insist on a gift deed, for the land affected by street alignment, as a condition precedent for plan approval. It is so, according to CMDA, since there is a clear statutory compensation mechanism and the same cannot be characterized as arbitrary or confiscatory.

15.Referring to Sections 32 and 36 to 38 of the T & CP Act, it is urged that a notified street alignment, forming part of an approved Master Plan, is not a land reserved in order to attract the consequences of deemed release contemplated under Section 38. Hence, the counter pleads that in



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case, the land owner executes a gift deed, the additional FSI or TDP would be granted. The counter further urges that as several persons have executed gift deeds, the petitioner should also follow suit. In case, he does not do so, it would result in unplanned development of the planning area and could lead to mismanagement of traffic flow. On these pleas, it seeks dismissal of the writ petition.

16.It is the submission of Mr.A.E.Ravichandran that the impugned letter is contrary to the judgment of the Division Bench of this Court in ***P.Vijayakalyani Vs. The State of Tamil Nadu and others***, in ***W.P.No.30905 of 2015***, dated ***05.06.2024***, which dealt with the similar power under the Development Control Regulations, 2008, found in Regulation 26(22). He relies upon Sections 36 to 39 of the T & CP Act, to urge that the land so reserved can be acquired, but there cannot be an insistence to execute a gift deed for a property, which is worth about 91.04 lakhs, free of cost.

17.Mr.S.Thiruvengadam, while adopting these pleas, relied upon a very recent judgment of this Court to the very same effect in ***B.K.K.Prem Vs. The Commissioner, Corporation of Chennai and others***, in



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***W.P.No.23523 of 2025 dated 14.07.2025***, to urge that the writ petition

must be ordered as prayed for.

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18.Mr.P.Kumaresan, learned Additional Advocate General, pleaded that once a detailed development plan is developed and approved in terms of Sections 26, 27 and 28 of the T & CP Act, the same comes into force as per Section 30 of the T & CP Act. He states that revocation or variation is possible only in terms of Sections 32 & 33. He relies upon Section 35-A to point out that if the petitioners surrender their land free of cost, CMDA will grant the land owners transferable rights which they can utilize to develop their property. He states that as per the TNCDBR, 2019, framed under the T & CP Act, transferable rights will be given over a private land, when any road widening or new road formation is proposed and notified. He states that the petitioners are not entitled to seek a mandamus or certiorari as prayed for.

### **Discussion, Analysis and Conclusion**

19.I have carefully considered the submissions of both sides and gone through the records.



20.Right to property is a constitutional right under Article 300A of the Constitution of India. In terms of this Article, no person, which includes a non citizen or a legal person can be deprived of his / her or its property, without authority of law.

21.In terms of Article 300A, a person is protected from being deprived of his property through a mere executive order. In order to be so deprived, the People's Representatives in the State Legislature or the Parliament should pass a legislation authorising a takeover. Interpreting the word “authority of law” in Article 300A, the Supreme Court in ***Kolkata Municipal Council vs Bimal Kumar Shah, 2024 INSC 435***, held that authority of law is not merely existence of a statute, but includes a constitutional net of seven sub-rights that the State must follow to deprive a person of his property. They are:

- i. Right to notice – Informing the person who would be affected by the acquisition regarding the intention to acquire;
- ii. Right to be heard – The acquiring authority should hear the objections of the affected person(s);
- iii. Right to a reasoned decision – The acquiring body should inform the person about why the land is being acquired;



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- iv. Duty to acquire only for a public purpose – The acquisition body cannot exercise the power of acquisition casually, but should demonstrate that the acquisition serves a larger public interest;
- v. Right of restitution or fair compensation – The authority acquiring the land must pay just/ fair/ reasonable compensation for the land acquired;
- vi. Right of an expeditious process – The acquiring body cannot sit upon on the acquisition for years on but must stick to statutory timelines;
- vii. Right to conclusion – Ensuring that the acquisition process ends with the formal vesting of the property on the acquiring body.

The attempt of CMDA in calling upon the parties to execute a gift deed as a condition precedent for grant of permission, is an attempt to by-pass the constitutional right and the sub rights so declared by the Supreme Court.

22.It is a principle of administrative law which has been in vogue since the time of Romans, captured in the Latin maxim *quando aliquid prohibetur ex directo prohibetur et per obliquum*, which means whatever is prohibited directly is also prohibited indirectly. By virtue of this principle, when the CMDA cannot walk into the land without adherence



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to the procedure established by law, it certainly cannot bypass the constitutional obstacles, which prevent the executive from reaching out to the property of a person by indirect method of staging, unless and until a gift deed is executed, the application for planning permission will not be considered. The role of the Constitutional Courts is in the nature of a guard or watchman of the rights of the citizens from being encroached upon by the executive. Hence, the then **Chief Justice Patanjali Sastri**, speaking for the Constitution Bench in ***State of Madras vs VG Row, 1952 INSC 19***, declared courts should function as a *sentinel on the qui vive* or meaning a watchman to be always on the alert to ensure the rights guaranteed under the Constitution are not trampled upon. If this Court were to permit CMDA to adopt such indirect tactics as being attempted in the present cases, it would be failing in the duty as a *sentinel on the qui vive*. While CMDA has the right to state how an area must be developed, in exercise of that power, it cannot indirectly attempt to usurp the land and property of individuals.

23. Both the writ petitions do not pertain to a situation where the petitioners have agreed voluntarily to transfer the property in terms of Section 123 of the Transfer of Property Act, in favour of CMDA. Both



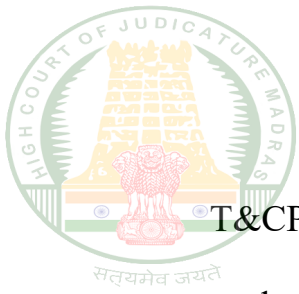
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the writ petitioners insist that they will not put up any construction over the area reserved for proposed road widening and that they are willing to transfer the title to the extent, required for such widening, in case, they are paid just, fair and reasonable compensation or if the land is acquired, in exercise of the powers of any land acquisition legislations. Both the petitioners have expressed their willingness to file an affidavit of undertaking to the effect that they will not construct upon or alienate any portion covered by street widening plan. In fact, the petitioners in W.P.No.1183 of 2026 have already done so. The primary issue is whether the CMDA can insist upon alienation by way of a gift deed as a condition precedent for grant of planning permission.

### **Power and functions of CMDA under the T& CP Act**

24.Let us now look at the scheme of T & CP Act. The CMDA is the planning authority for the CMA as per Chapter-II-A of the T & CP Act. The functions and powers of the CMDA are defined under Section 9-C.

25.Section 9-C(iv) entitles the CMDA to cause such works to be carried out as contemplated in any development plan. As to what constitutes “development plan” is defined under Section 2(15) of the



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T&CP Act. “Development Plan” means a plan for development or re-development or improvement of the area within the jurisdiction of a planning authority and includes a regional plan, a master plan, a detailed development plan, new town development plan and a land pooling area development scheme prepared under the T & CP Act. Hence, the CMDA is entitled to prepare a detailed development plan, insofar as Chennai area is concerned.

26. Section 17 deals with Master Plan for an area; Section 18 deals with new town development plan; Section 19 deals with a detailed development plan; and Section 21 deals with submission of the detailed development plan for approval by the Director of Town and Country Planning. The Government can call upon the CMDA to prepare a detailed development plan, notwithstanding anything contained in Sections 17, 18, 19 and 21 of the T & CP Act.

27. The contents of the detailed development plan are given under Section 20 of the Act. The CMDA while preparing a detailed development plan, is entitled to propose or provide for construction, diversion, extension, alteration, improvement or closure of lanes, streets,



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roads, etc.,. This is as per Section 20(1)(b). A detailed development plan can also provide for acquisition by purchase, exchange or otherwise of any land or other immovable property within the area included in the detailed development plan whether “**required immediately or not**”. This is as per Section 20(1)(d).

28.Once the detailed development plan is prepared, it has to be submitted to the Government for consent under Section 24 of the T&CP Act. The Government retains with itself the power to modify the plan, as it thinks fit. Once such modification is made, the CMDA would have to carry out the said modifications and re-submit the same to the Government.

29.On such re-submission, under Section 26 of the T&CP Act, publication would have to be made in all dailies and in the Tamil Nadu Government Gazette, informing about such plan.

30.By virtue of Section 28, the Government may approve such plan. Once approved, the plan has to be published by the Government in a notification in the Tamil Nadu Gazette. On such notification, the plan



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would come into operation from the date mentioned in the said notification. The CMDA may at any time, after the notification, vary, revoke or modify the plan by a subsequent plan prepared and approved in the same manner as the master plan, regional plan or detailed development plan.

31.It is the plea of CMDA that since there are proposals for widening of the Purasaiwakkam High Road and Velachery Main Road, if the owners of the land situated on the said roads, submit an application for development, the CMDA can insist as a pre-condition for surrender of the areas covered under the detailed development plan for proposed street widening as a condition precedent for the purpose of granting planning approval.

32.The power to grant a development and use of land is found under Chapter-VI of the legislation. Section 47 states that development of any land in an area which is covered by a development plan, should be in accordance with the development plan. Once a publication is made under section 19(2) for a detailed development plan, no person is entitled to erect any building or carry out any operation, in, on, over or under any



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land except with the written permission of the appropriate planning authority. The development must be in accordance with the conditions specified therein.

33.The manner of grant of permission is given under Section 49 of the Act. In terms of Section 49(2), the planning authority may grant or refuse to grant of such permission having regard to the future development and maintenance of the planning area. Once the plan is approved under this section, it is valid for a duration of eight years. The appropriate planning authority also has the power to revoke or modify the plan approved under Section 54 of the Act. In case of a development contrary to the permission granted, under Section 56 of the Act, the authority has the power to remove the construction and also stop the unauthorized construction as per Section 57 of the Act.

34.None of these provisions contemplate the imposition of compulsory execution of a gift deed prior to the grant of approval. Section 49 does not empower the authority to grant or refuse permission, in case, a person proposes to develop a property does not transfer his land free of cost, only on account of the fact the land has been reserved for



future development. This is not too far to see for. In terms of Article 300A, the Constitutional Right to property cannot be deprived calling a person to transfer his land or a portion thereof, without payment of just and adequate compensation.

35.The T&CP Act has a separate chapter with regards to acquisition and disposal of land. Under Section 36, where any land is required or designated in a detailed development plan, it shall be deemed to be a land needed for “public purpose” within the meaning of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 36 states that the land may be acquired under the said Act. If a detailed development plan is published, it is open to any appropriate planning authority to acquire the land as per Section 37.

36.The acquisition may be a voluntary act of transfer as per Section 37(1)(a) of the T&CP Act, on payment of an agreed amount or in lieu of the payment of monies, the land owner may be granted TDR in terms of Section 37(1)(b). If a land owner is not willing to accede to both, resort may be made to Section 37(1)(c) read with 37(2) entitling the planning



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authority to make the planning application to the Government for invocation of Central Act, 30 of 2013. On such application, if the Government is satisfied, it may acquire the land strictly in accordance with Central Act, 30 of 2013. As per Section 38, if no acquisition of land is made in terms of Section 37, the reservation so made under Section 26 and 27 of the T&CP Act lapses.

37.It is the plea of the CMDA that as the detailed development plan has been notified, there is no necessity for resorting to acquisition and that they can use their power under Section 49 as a legal thumbscrew to extract the property from the applicant free of cost.

38.I have analyzed the entire provisions of the Act in order to point out none of these provisions contemplate such forcible extraction of a property from a person in favour of the planning authority. On the contrary, as per Section 39, if any person is injured on account of any of the provisions contained in the regional plan, master plan, detailed development plan or new town development plan, he or she is entitled to seek for compensation which shall be determined by a Tribunal. This shows that not only is a person entitled for compensation in terms of



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Central Act 30 of 2013, for acquisition, but by virtue of Section 39, he is also entitled for compensation, in case, his property is injuriously affected. In other words, in case of any infringement of right to property, the citizen is not denied of his right to compensation.

39.Insistence of the CMDA that it will grant approval for the development of the land, if and only if, the gift deed is executed, is not supported by any statutory provisions. Section 49 provides for application for grant of permission for development of land. It nowhere calls upon the applicant/land owner to surrender his valuable right to his property, as a condition precedent, for getting approval for development.

40.I would look at it in other angle. The power to grant approval for development is with the CMDA. On insistence of a gift deed to be executed as a condition precedent, the CMDA is fettering its discretion and limiting its decision-making power by requiring a condition precedent which is neither approved by a statute or the rules made thereunder.



41.Using the planning permission process to acquire land free of

cost, apart from being unconstitutional, in the view of this Court, is an improper exercise of discretion vested with the authority. A statutory authority, like the CMDA, must inform itself of only the statute and rules made thereunder, rather than unlawfully fettering the power to grant or deny planning permission, based on its own notions.

42.It is here that I will refer to the erstwhile development regime and the present regime that deal with grant of approvals. Under Rule 18(b) of the Development Control Rules of Madras Metropolitan Area, 1975, an option was given to the land owner to hand over the land belonging to him free of cost and claim additional Floor Space Index. The Development Control Rules, which were framed under the Town and Country Planning Act, nowhere called upon the owners to surrender the land as a condition precedent for approval. Similarly, under Rule 26(22) of the Development Regulations, 2008, if a land is set apart for formation of a road or for road widening, then the owner had an option to transfer the land and seek for TDR. This too was an option given to the land owner.



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43.The Rules have to be read in conformity with the statute. Rule 26(22) of Development Regulations, 2008 and Rule 18(b) of Development Control Rules, 1975, would have to be read along with Section 37 of the Town and Country Planning Act. While a development control plan is in force, if an owner of the land intends to develop his land covered by the development plan, he could agree to transfer the designated or reserved land in favour of CMDA by exercising the option under Section 37(1)(a) of the T&CP Act. Rule 26(22) and Rule 18(b) correspond to this provision. It cannot be stretched to the extent that even when there is no plan in force, for the mere proposal for development, the landowner should surrender his land. Such an interpretation would defeat the statute. The tail cannot wag the dog. Rules would have to be read in conformity with the statute made by the legislature.

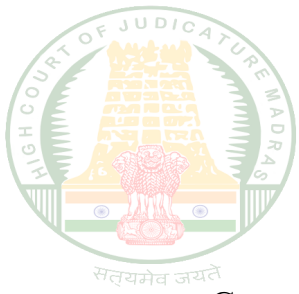
44.This Court has already concluded that in case an area is reserved, the mode of transfer of title is contemplated under Section 37(1) and not by exercising the power under Section 49 as a finger crusher or a Spanish boot to crush the property out of the owner. Such an attempt amounts to pillorying the owner, which is not approved either by the Constitution or by the T & CP Act, the statute which created the CMDA.



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45.By virtue of Section 38, the land stands deemed to be released from reservation if the declaration in respect of acquisition is not published or if the land is not acquired. Upon such deemed release, the legal fiction of “public purpose” under Section 36 ceases to operate, and the planning authority cannot continue to impose conditions referable to such reservation. The insistence on execution of a gift deed as a condition precedent for grant of planning permission cannot survive beyond the statutory period, and any such insistence would be contrary to the Act.

46.Much reliance has been placed upon Rule 35(19) of the TNCDBR, 2019 by the learned Additional Advocate General. A careful perusal of Rule 35(19), instead of going in favour of the CMDA, goes against it. Under Rule 35, not only should the land be set apart, but should also be **notified** as required for formation of a new road, road widening or street alignment. During the course of arguments, I called upon the CMDA to produce a notification indicating the subject land had been notified as contemplated under Rule 35(19). No such notification, which is alive, was produced.



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47.A fair submission was made by learned Additional Advocate

General that sometime in 1980s, a notification had been issued for Purasaiwakkam Village. A reservation made under Sections 26 and 27 of the T&CP Act is valid for a period of five years as per Section 38. Hence, this Court has to conclude that Rule 35(19) can be utilized, if at all only if a land owner, within a period of five years or the extended period as per Section 38(2), seeks to develop his land and agrees to receive TDR, in lieu of compensation, for the value of the land as per Section 35-A of the T & CP Act, read with Rule 35(19) of the Tamil Nadu Combined Development and Building Rules, 2019.

48.Any other interpretation would render the purpose of Chapter-IV of the T&CP Act otiose. It is the duty of the Court while interpreting the statute and rules to ensure that no part of the rules or the statute is rendered redundant.

49.Now I turn to the case laws cited.

50.The Hon'ble Mr.Justice C.Saravanan, had conducted a detailed survey of the law in ***R.Rajagopalan and another Vs. The Commissioner,***



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**Greater Chennai Corporation and others, in W.P.Nos.17363 & 18659 of**

**2022** dated **19.10.2022**. He concluded that gifting of a land is not a recognized mode of acquisition under the T&CP Act or under the TNCDBR, 2019. The learned Judge concluded that demanding a gift deed lacks statutory basis and cannot be enforced without a mutual agreement.

51.At the time of argument before him, it was submitted that as against a similar view taken by another learned Single Judge, an appeal had been preferred by the CMDA and the same was pending. This was in W.A.No.3663 of 2019.

52.I should point out that the said writ appeal was disposed of by a judgment of this Court on 05.06.2024 The Division Bench concluded as follows:-

*“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*



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*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.”*

(emphasis supplied)

53.Following these precedents, the Hon’ble Mrs.Justice N.Mala allowed the writ petition of an owner in ***B.K.K.Prem Vs. The Commissioner, Corporation of Chennai and others***, in ***W.P.No.23523 of 2025 dated 14.07.2025***, in the following terms:-

*“11.As the issue in the present writ petition is identical to the facts and the law raised in the above referred cases, I am inclined to allow the writ petition by issuing the following directions:-*

*i.[1]The petitioner is directed to submit an affidavit of undertaking, not to put up any construction in an area of 60 sq.m., which is required for road alignment / widening.*

*[2]The petitioner shall undertake to surrender*



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*the portion of 60 sq.m. for implementation of the road alignment / widening work in future, subject to his right for reasonable and fair compensation.*

*[3]The respondents shall, upon receipt of the undertaking, open the portal for re~submission of the application by the petitioner for planning permission, by dispensing with the execution of the Gift Deed.*

*[4]The respondents shall consider the petitioner's application for planning permission on merits and in accordance with law, within a period of two weeks from the date of receipt of the aforesaid undertaking from the petitioner."*

54.Since the T&CP Act and the prevalent TNCDBR, 2019 do not empower the authority to insist on gifting of land as a condition precedent, for approval for development of a land as per Section 49, following the aforesaid precedents, both these Writ Petitions are allowed on the following conditions:-

**(i)**The impugned order in W.P.No.1183 of 2026 bearing No:CMDA/PP/NHRB/N/0161/2025, dated 25.11.2025, insofar as it insists on execution of a gift deed as a condition precedent to consider the planning permission



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W.P.Nos.1183 & 6888 of 2026

application is quashed. The application shall be considered within a period of 4 (four) weeks from the date of uploading of the order.

**(ii)**The petitioner in W.P.No.6888 of 2026 will be entitled for a mandamus directing the CMDA to consider his application, without insisting upon him to execute a gift deed, if the application is otherwise in compliance with law, within a period of 4 (four) weeks from the date of uploading of a copy of this order.

**(iii)**As the CMDA continues to insist upon execution of gift deeds for the property, despite the law having been declared by this Court in clear terms for atleast a decade and more, the CMDA shall pay a cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) to each of the writ petitioners. Consequently, the connected miscellaneous petitions are closed.

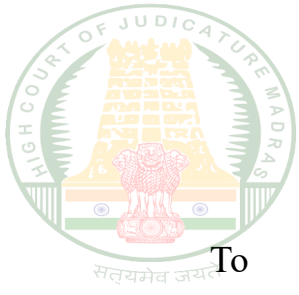
**24.04.2026**

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No



W.P.Nos.1183 & 6888 of 2026

To

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- 1.The Member Secretary,  
Chennai Metropolitan Development Authority,  
No.1, Gandhi-Irwin Road, Egmore,  
Chennai – 600 008.
- 2.The Additional Chief Secretary,  
Housing and Urban Development,  
Secretariat, Chennai.
- 3.The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu Natarajan Building,  
Gandhi Irwin Road,  
Egmore, Chennai – 600 008.
- 4.The Commissioner,  
Corporation of Chennai,  
Ripon Buildings,  
Chennai.



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W.P.Nos.1183 & 6888 of 2026

**V.LAKSHMINARAYANAN, J.**

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W.P.Nos.1183 & 6888 of 2026 and  
W.M.P.Nos.1384, 1387 & 1388 of 2026

24.04.2026