

Choodamani Narayanan vs Chennai Metropolitan Development Authority(Cmda)

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Court : Chennai

Decided On : Apr-22-2026

Judge : Honourable Mr.Justice V. Lakshminarayanan

Appeal No. : WP/5664/2025

Appellant : Choodamani Narayanan

Respondent : Chennai Metropolitan Development Authority(Cmda)

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.11.2025

Pronounced on : 22.04.2026

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN and
W.M.P.No.6269 of 2025 1.Choodamani Narayanan, rep. by her son &
Agent, Mr.N.Krishnan, No.15, Parthasarathy Gardens, Alwarpet, Chennai
- 600 018. 2.Dr.Sadayavel Kailasam 3.Sriram Sivaraman .. Petitioners

Vs. 1.Chennai Metropolitan Development Authority ('CMDA'), 'Thalamuthu Natarajan Maaligai', No.1, Gandhi-Irwin Road, Egmore, Chennai - 600 008. 2.Archana Ruia 3.M/s.RUIA Developers LLP, represented by its Partner, Mr.Mayank Ruia, 34, Ulsoor Road, Yellappa Garden, Yellappa Chetty Layout, Sivanchetti Gardens, Bengaluru, Karnataka - 560 042. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the Planning Permission dated 13.09.2024 bearing Planning Permission No.OL-PP/NHRB/0543/2024 and to quash the same. For Petitioners : Mr.M.S.Murali Mr.M.Velmurugan for R and P Partners For R1 : Mr.P.S.Raman Advocate General for M/s.Akhil Akbar Ali For R2 : Mr.Vijay Narayan Senior Advocate for Mr.K.T.Sanjeev Kumar For R3 : Mr.AR.L.Sundaresan for Ms.Madhumitha

ORDER

The petitioners are residents of an area called Parthasarathy Garden, Kasturi Rangan Road, Teynampet, Chennai - 600 018. They challenge the proceedings of the first respondent in granting planning permission to the respondents 2 & 3, to put up a construction consisting of ground floor (part)/stilt floor (part) and 4 floors, to a height of 18.30 meters.

2. The petitioners plead that M/s.Kasturi Estates Private Limited (hereinafter referred to as 'KEPL') belongs to the Kasturi

Group, which publishes dailies and magazines. The said company owned extensive properties, in and around, Chennai city. An extent of 68 grounds, comprised in Survey No.1591/1 &

purchased by one, Kasturi Ranga Iyengar, on 10.01.1896. He passed away sometime in 1923 and the property devolved on his sons, K.Srinivasan and K.Gopalan. These two gentlemen, along with few other

members of the family, vested the aforesaid property in favour of M/s.KEPL. M/s.KEPL applied to this Court in C.P.No.9 of 1962 for reduction of the share capital and to refund the excess amount to its shareholders in proportion to their holdings in cash and in form of immovable properties. This Court ordered the reduction on 20.04.1962. In parity to the reduction of share capital, pursuant to a resolution dated 08.05.1962, the properties came to be vested with one Ms.Menaka Parthasarathy.

3. Ms.Menaka Parthasarathy decided to develop the said

property into a residential layout. She applied for the same and obtained sanction bearing Reference No.L.A.No.47/68. At the time of sanctioning the layout, several conditions were stipulated. The primary amongst them being clauses 4 to 7, 12, 15 & 16 and 23.

4. The predecessors of the petitioners herein purchased plots from KEPL and Ms.Menaka Parthasarathy by way of registered sale deeds. The mother of the second respondent too, is one such purchaser.

5. The cause of action for this writ petition is that the

second respondent entered into a joint development agreement with the third respondent to construct a multi-storied residential apartment. It is the plea of the petitioners, that this is in violation of the conditions of the sanctioned plan. The petitioners allege that the area is a premium residential locality with lot of trees and plants planted by the residents, and the idea of maintaining the area in accordance with the layout conditions is to ensure ecological balance and to preserve green belts in and around the locality.

6. The petitioners plead that on coming to know of the attempt by respondents 2 & 3 to put up a construction, they

pleaded with them not to proceed with the project. As it fell on deaf ears, they have approached the first respondent by way of a representation dated 12.01.2023. As no response was received from the first respondent, they filed WP.No.17019 of 2023 for a direction to consider this representation, before deciding on the application to grant planning permission to the respondents 2 & 3.

7. This Court directed the first respondent to hear the

petitioners before taking a final decision on 16.06.2023. Pursuant to this order, CMDA called for a meeting of the petitioners and passed an order on 06.08.2024 (the order was signed on 09.08.2024).

8. The gist of the order being that the Tamil Nadu

Combined Development and Building Rules, 2019, (hereinafter referred to as TNCDBR, 2019) prevails over, any equivalent land rules and regulations for the land, captured in the layout conditions. The petitioners approached this Court by way of a

writ petition in W.P.No.30246 of 2024, challenging the order

dated 06.08.2024. When the writ petition came up for hearing, the petitioners were informed that the respondents 2 & 3 were granted the planning permission on 13.09.2024. Hence, the petitioners withdrew that writ petition on 04.02.2025, with liberty to challenge the planning permission.

9. It is the plea of the petitioners that the planning

permission granted under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, (Act 35 of 1972), (hereinafter referred to as the 1971 Act) cannot be in violation of the layout conditions imposed by the Chennai City Municipal Corporation. They pleaded that the layout condition specifically states that only one residential dwelling unit can be maintained in each plot and that, only 2/3rd of the area of each plot can

be built upon. They urged that due to layout conditions being valid and binding, they have to be complied with by the respondents 2 & 3.

10. On the date of admission on 19.02.2025, Mr.Akhil Akbar Ali took notice for the first respondent and notice was issued to respondents 2 & 3.

11. Mr.Akhil Akbar Ali filed counter affidavit on behalf of

the first respondent. The counter affidavit states that the TNCDBR, 2019, approved by the Government, supersedes the layout conditions imposed by the Corporation of Madras under various regulations prior to 1975. It relies upon Rule 74 of the said 2019 Rules for the said purpose. It is alleged that one of the petitioners in WP.No.30246 of 2024, was a gentleman by name Puneet Gupta, who, while objecting to the respondents 2 & 3 developing the property, had himself applied for and obtained planning permission for his property on 01.06.2016. The counter states that in compliance with the order in WP.No.17019 of 2023 dated 16.06.2023, six persons including two advocates were heard. It adds that permission for a high rise building has not been given under the planning permission and that, only a non-high rise building to an extent of 18.3 meters, with specified number of dwelling units, is permissible under the TNCDBR, 2019.

12. The counter further submits that in terms of Section 9-C, Chapter II-A of the Tamil Nadu Town and Country Planning

(Amendment) Act, 1973, (Tamil Nadu Act No.22 of 1974), read with the 1971 Act, the CMDA had carried out survey and studies and prepared a Master Plan for Chennai Metropolitan Area in the year 1975, and that it was approved in the year 1976. The Master Plan has allocated the areas specifically for industries, commerce, housing, play fields and other major urban land uses in the appropriate location. The counter relies upon Rule 26 of Development Control Rules for Chennai Metropolitan Area to plead that the provisions of Chennai City Municipal Corporation Act or the

Panchayat Act, etc., stands superseded in light of the Rules. It is further urged that when the Master Plan came into force in the year 1975, it superseded all the Rules prevailing or existing prior to 1975.

13. To that effect, it relied upon Rule 33 of the Tamil Nadu

Development Control Rules, 2008. By virtue of Rule 74 of the TNCDBR, 2019, the Development Control Regulations, 1975 and 2008, also stand superseded. The touchstone on the basis of which approvals are granted today is TNCDBR, 2019, which permits the grant of planning permissions. Hence, it is pleaded that the writ petition must be dismissed.

14. A partner of the third respondent has filed a counter.

In this counter, he traces title to the property for which the planning permission has been obtained. It is the plea of the third respondent that he had obtained permission from the first respondent in terms of the TNCDBR, 2019, and relies upon Rule 74, to urge that it takes precedence over all conditions, which has been imposed earlier.

15. It is urged that when there is a conflict between the

regulations made under the TNCDBR 2019 and the 1971 Act, it is the regulations under the Tamil Nadu Town and Country Planning Act which should prevail. More or less, the counter of the third respondent on this aspect adopts the plea of the first respondent. The counter also points out that Mr. Puneet Gupta had obtained a planning permission to put up the construction, contrary to the layout conditions and although they are in violation of the TNCDBR, 2019, it is valid. In fine, the plea is that the conditions in the layout are not in force as they have been repealed by the 2019 regulations. The third respondent pleads that it is well within the rights of the owners to develop a

non-high rise residential building in the area. This counter too, seeks for dismissal of the writ petition.

16. With the pleadings having been completed, the writ

petition had been argued before my predecessor. He had reserved orders, but could not pronounce the same due to his unfortunate demise. Thereafter, the matter was listed before me. I took it up for hearing.

17. I heard Mr.M.S.Murali and Mr.M.Velmurugan for the

petitioners, Mr.P.S.Raman, Honble the Advocate General for Mr.Akhil Akbar Ali for the first respondent, Mr.Vijay Narayan, Senior Counsel for Mr.K.T.Sanjeev Kumar for second respondent and Mr.AR.L.Sundaresan for Ms.Madhumitha for the third respondent.

18. Mr.M.S.Murali, after narrating the facts, stated that the layout conditions had been approved by the Chennai Municipal Corporation, in terms of the prevailing 1919 Act in the year

1968. Contrary to the layout conditions, he points out that the respondents 2 & 3 are attempting to put up a construction

consisting of a stilt and four floors. He rebuts the allegation of the respondents, that the petitioners themselves have put up a multi-storied construction. He states that the petitioners are in compliance with the layout conditions. He pleads that the construction of a multi-storied building would affect the peaceful atmosphere maintained in the layout, and that the layout conditions have not been repealed, but continue to govern the area.

19. Mr.M.Velmurugan, in addition, submitted that while modification in the layout plan is permissible, the same should be strictly in compliance with section 54 of the Tamil Nadu Town and Country Planning Act.

20. Mr.P.S.Raman, Honble the Advocate General, pointed

out that the conditions in the layout plan bearing Reference No.L.A.No.47/68, were imposed on the request of Ms.Menaka Parthasarathy, the sponsor of the layout. He states, pursuant to the amendment made in 1974 to the Town and Country Planning Act, Chapter-II A was introduced and the CMDA was established. By virtue of this provision, any construction above

two floors requires approval of the CMDA. He states that the CMDA framed the Development Control Rules and divided the City into several zones, namely, (i)Residential; (ii)Mixed; (iii)Commercial; (iv)Industrial; and (v)No construction zone.

21. He states that the premises to which the writ petition

relates, continues to be a residential zone. He urges that the extent of construction depends upon the floor space index which is again decided on the basis of the size of the land zone, and width of the road which abuts the area for proposed construction. He states that the CMDA insists that the set-back norms have to be adhered to, and all these conditions had been verified by the first respondent prior to the granting of approval. He pleads that the respondents 2 & 3 have merged two plots into one. They propose to construct eight apartments, two on each floor. He adds, the private respondents have applied and obtained permission for demolition and re-construction. He

urges, by the passage of time, the layout conditions originally imposed have become irrelevant and cannot be enforced. On law, he places strong reliance on Rule 74 of TNCDBR, 2019, and urges that this provision repeals all the conditions that had been imposed earlier and for the purpose of approval, the CMDA is governed by the TNCDBR alone. He pleads that the present building rules alone are applicable and that, by virtue of Section 105 of the Town and Country Planning Act, any condition imposed in the layout stands nullified.

22. He pleads that a selective approach has been made by

the petitioners. They did not object when Mr.Puneet Gupta sought to develop his property, but are opposing only when the respondents 2 & 3 are seeking to develop theirs. He states the issue of overriding effect of the Tamil Nadu Town and Country Planning Act, and the Regulations made thereunder has been settled by the Supreme Court in Madhya Pradesh Housing and Infrastructure Development Board and Another Vs. Vijay Bodana and others, (2020) 4 SCC 521. He also places reliance upon the judgment of this Court in Tamil Nadu

Housing Board Vs. Mary Rani Immanual and others, 2013 SCC OnLine Mad 1503.

23. Mr.Vijay Narayan, Senior Counsel appearing for the

second respondent urges that the second respondent has entered into a Joint Development Agreement with the third respondent to develop her property. He states that the layout conditions can be divided into two categories, namely, statutory conditions, which are compulsory in every layout and non- statutory conditions, which are in the nature of covenants running with the land. He states that every land owner would like to monetize the use of land due to reasons which are personal to them. He states that the promoter of the layout, Ms.Menaka Parthasarathy, had imposed the layout conditions which she could not have placed in a sale deed. He states, what could not be done directly by the promoter had been done indirectly under the guise of layout approval.

24. He adopts the arguments of Honble the Advocate General, that Rule 74 of the 2019 Rules overrides the layout conditions and refers to Section 122 of the Town and Country

Planning Act. To substantiate his plea, he states that the highest of the plan is the Master Plan envisaged under Section 17, which are followed by the Detailed Development Plan under Section 20. He states, Section

20(n) is wide enough to deal with the issue of land division, and without the same, the Government still has the power under Section 22 to order the Town Planning Authority to develop a Master Plan. He pleads that the layout plan for M/s.KEPL had not imposed the same conditions as found in Reference No.L.A.No.47/68. Therefore, it is open to CMDA to apply the 2019 Rules and grant the impugned permission.

25. He also refers to Sections 105, 122 and 124 of the

1971 Act, read with Rule 32 of TNCDBR, 2019 to substantiate his plea. Referring to these provisions, his plea is that the layout conditions are overridden by the operation of law. He pleads that 2019 Regulations are alive to the present situation, which calls for more useful and more housing for the residents of Chennai.

26. Mr.AR.L.Sundaresan states that the purpose of enacting the TNCDBR, 2019 is for ease of doing business and to

ensure simplification of rules and procedures for approval and development of layouts with focus on safety and sustainability. He states that the Government of Tamil Nadu had taken a decision to bring forth the 2019 Rules in order to revise and re- issue the various building Rules, which were then existing across the State.

27. In response, Mr.M.S.Murali urges that none of these

submissions are tenable. According to him, the Tamil Nadu Urban Local Bodies Act, 1998, which had repealed all the legislations relating to local bodies, a saving clause has been inserted under Section 200, and this saves the layout conditions. It is pleaded that, exploitation of the land by the respondents 2 & 3 should not be detrimental to the other residents, as in the present case.

28. I have carefully considered the submissions of both sides. I have gone through the records in detail.

29. Before dwelling into the nitty gritty of this case, in

order to have a holistic understanding of town planning and the

law governing them, it is essential to look into its history.

30. The erstwhile town planning legislations in India were

largely based upon the needs and interests of the colonial masters. They were concerned with the need for segregation and, thereby, town planning served as a means of asserting their power. Those who came to India from the then Great Britain, regularly fell sick on account of epidemics like cholera and plague. The belief for a long time was that this was on account of "miasma - the disease spread through unhealthy air. Hence, the British East India Company was more concerned with the need for sanitation, drainage and ventilation.

31. After the Crown took over from the British East India

Company, a Royal Sanitary Commission was formed. The Sanitary Commission submitted a report, which led to Presidency Level Sanitary Commissions being established in Presidency Towns of Madras, Bombay, and Calcutta. The purpose of these Commissions were to oversee public health and

hygiene in urban areas. As pointed out above, in furtherance of their policy of segregation, the British town planners created well planned white towns in the civil lines, which had better infrastructure like wide roads, pipe waters, sewage systems, and parks etc., for European residents, and left the natives to reside in the less regulated black towns. Prior to these efforts, Municipal Corporations were established in Madras, Bombay, and Calcutta viz., in 1688 for Madras, and in 1726 for the other two presidencies.

32. With the outbreak of bubonic plague in Bombay, the British started searching for solutions. They came to the

conclusion that the spread of plague was on account of

overcrowding and unsanitary conditions. In order to acquire land for town planning, they inserted Section 3(f) in the Land Acquisition Act of 1894. This empowered the Government to acquire private lands for town planning in the definition of public purpose. Soon thereafter, improvement trusts were established across the Country. The improvement trusts utilised the Land Acquisition Act to acquire lands, which often led to the displacement of people, belonging to the lower strata of society.

33. The first formal legislative interference in Town

Planning was the Bombay Town Planning Act of 1915. This Act empowered the local authorities to prepare "Town Planning Schemes" for areas under their jurisdictions. This legislation introduced concepts like zoning, building regulations and collection of taxes from owners, on account of the increase in the value of their properties, due to the implementation of the schemes. Being influenced by this legislation, the then Madras Government, acting on the advice of Mr. Patrick Geddes, legislated the Madras Town Planning Act of 1920. He was ably assisted by a British architect, Mr. H. V. Lanchester. In addition to the Bombay Town Planning Act of 1915, the Madras Act was influenced by the Housing, Town Planning Act of 1909 and the Housing and Town Planning Act of 1919, which were enacted for providing a legal framework for town planning in the then Great Britain.

34. The Madras Town Planning Act of 1920 is being referred to in this judgment, since the development of the area in question arose, when the said legislation was in force. This Act

empowered the Municipal Council to create and execute Town Planning Schemes. Under Section 4, details were given as to matters that may be dealt with in such a scheme. Section 4(a) enabled for a Town Planning Scheme to provide for laying out or re-laying of land, whether vacant or already built upon, as building sites or for any other purposes mentioned in the said Section. Section 4(n) contemplated imposition of conditions and restrictions in regard to the following:

- (i) Character;
- (ii) Number;
- (iii) Architectural features;
- (iv) Height of the building allowed in specific areas;
- (v) The purpose to which the building or specified area may or may not be appropriated; and,
- (vi) Provision and maintenance of sufficient open space about the building.

35. The word "detailed development plan" was not defined

under the Madras Act VII of 1920. The then Madras Government was given significant oversight powers including the authority to sanction schemes, overrule objections and also to ensure proper implementation. Chapter V contemplated a situation where, after the sanction of the scheme, if disputes arose, the State Government was to appoint an arbitrator to deal with the specified aspects delineated under Section 27.

36. A reference to Section 4(a) and 4(n) of the 1920 Act

makes it clear that while approving the scheme of development, the planning authorities could impose conditions for grant of approval. Though the Honble Advocate General and the learned Senior Counsel for the respondents argued that the layout conditions were imposed on

the request of Ms.Menaka Parasarathy, the sponsor of the layout and not by the planning authorities, in the light of Section 4(a) and 4(n) of the 1920 legislation, I am not in a position to agree with the same.

37. Perusal of aforesaid Act shows that the then Town

Planning Authority, namely, the Corporation of Madras, was entitled to impose those conditions. Apart from the legislation, a perusal of the order passed by the Assistant Engineer, Town Planning, Corporation of Madras dated 15.04.1969 points out that those conditions had been imposed by that town planning authorities as the condition of the order sanctioning the layout and not by Ms.Menaka Parthasarathy.

38. Reading the order dated 15.04.1969 would lead one to

the conclusion that in addition to the conditions laid therein, the layout, being sponsored by Ms.Menaka Parathasarathy, had to comply with the requirements of the erstwhile Madras City Municipal Corporation Act. In terms of Section 4(n), the Town Planning Authority had imposed the following conditions namely,

(i) that there should be only one dwelling house;

(ii) that the area specified must be used only for residential purpose; and

(iii) that at least not more than 2/3rd of the extent of the

site should be built upon. Conditions 4 to 7 when read with condition No.12 of the 1969 layout approval order show that they were imposed in exercise of the statutory power under the Town and Country Planning Act of

1920. Hence, the plea of the respondents that the old layout

conditions had become irrelevant by passage of time cannot be entertained. Conditions imposed by a statutory authority do not lapse with the passage of time. The statutory authority certainly has the power to modify the conditions, if the statute so provides for it. More on this later.

39. It is the plea of the counsel for the respondents that on account of coming into force of TNCDPR, 2019, the conditions earlier imposed have all been repealed.

40. The Town and Country Planning Act of 1920 was repealed by the Tamil Nadu Town and Country Planning Act,

1971. The reason for the repeal was that the 1920 Act, mainly

focused on Town Planning Schemes. It lacked a broader perspective on regional planning, which was essential for the growth of the urban areas, leading to the interplay between the urban areas and the surrounding rural areas. Furthermore, while there was a planned development of areas covered under the scheme, in areas not so covered, it led to an unsystematic and haphazard growth.

41. In addition, the Municipal Authorities also felt that the 1920 Act did not give them sufficient powers to enforce the regulations. Consequently, the State of Tamil Nadu enacted the Tamil Nadu Town and Country Planning Act of 1971.

42. It was not as if, as urged by the respondents, with the

repeal of the Town and Country Planning Act of 1920, all the terms and conditions that had been imposed under the erstwhile legislation and the rules made thereunder stood repealed. In fact, the Tamil Nadu Town and Country Planning Act, 1971, has a provision saving such schemes. This is under section 34. For ready reference, Section 34 is extracted as hereunder: 34. Detailed town planning schemes prepared under the Tamil Nadu Town Planning Act, 1920, deemed to be detailed development plans under this Act.- Every detailed town planning scheme notified, submitted or sanctioned under the Tamil Nadu Town Planning Act, 1920 (Tamil Nadu Act VII of 1920) together with any variation made thereto shall, for purposes of this Act, be deemed to be a detailed development plan made under the Act and all actions taken under the said Act in respect thereof shall be deemed to have been taken under

this Act. A perusal of this section makes it clear that the Town Planning Schemes that had been prepared under the 1920 legislation and all actions, which includes the 1969 order approving the layout

are deemed to be detailed development plans under the 1971 Act. This provision was obviously incorporated in order to ensure a legal continuity in urban planning and development regulations.

43. I will also have to consider another provision, which

was inserted by the Tamil Nadu Act 40 of 1981. This amendment inserted as Section 34-A which reads as follows: 34-A. Special provision for sanction of building plan in certain cases.- Notwithstanding anything contained in this Act or in any other law relating to local authorities for the time being in force, or in any detailed development plan, made or deemed to be made under this Act, the Municipal Corporation of Chennai may sanction any buildings plan,-

(i) providing for the construction of more than one dwelling-house on any one site; or

(ii) providing for the construction of any building with variation in regard to requirement of plot extent or plot coverage or open space.

44. This provision was introduced since the then Municipal Corporation of Chennai continued to sanction plans, despite the repeal of the Town and Country Planning Act of 1920 and the

formation of CMDA under the 1971 legislation. Soon after the Town and Country Planning Act was brought into force, an amendment was made with respect to the City of Madras/Chennai vide Tamil Nadu Act 22 of 1974. By this amendment, Chapter II-A was inserted into the said Act.

45. The Madras Metropolitan Development Authority

(MMDA) was established under Section 9-A. The powers and functions of the MMDA was incorporated under Section 9-C. Hence, with the establishment of MMDA, now known as CMDA, the local body, namely, the Municipal Corporation of Chennai lost its power to grant any approvals. Unmindful of the same, the Municipal Corporation of Chennai continued to approve and sanction layouts and building plans, together with conditions, as before. Hence, the amendment was brought in 1981 titled as The Tamil Nadu Town and Country Planning (Amendment) Act of 1981.

46. By Section 3 of this legislation, building plans that had been approved between the period 15.08.1974 and ending 01.10.1980 were declared to have been validly sanctioned as if

Section 2 of the Act had been in force at all material times. This legislation was undertaken in order to validate the action of the Municipal Corporation of Chennai. As the statement of objects and reasons of the amendment itself points out that when the Town and Country Planning Act came into force in 1971, there was no provision in the said legislation empowering the Municipal Corporation of Madras to sanction building plans with the variations, without the same having been approved by the Government. Admittedly, in this case, neither Section 3 of the Amendment Act nor Section 34-A of the incorporated legislation were utilised. Instead, the CMDA had approved multi-storey constructions in the area which, according to the petitioner, is contrary to the conditions imposed under Section 4(a) and Section 4(n) of the Town and Country Planning Act, 1920.

47. The survey of Town and Country Panning Act shows

that the word "layout" has not been shown as a separate and distinct category. The word "development" defined under Section 2(13) is comprehensive enough to cover a layout, and in this case, the one sponsored by Ms.Menaka Parathasarathy

and approved by the Corporation of Chennai in the year 1969.

48. A combined reading of Section 2(13), Section 2(15) with

Section 34 of the 1971 legislation, makes it clear that the Town Planning Scheme approved by the Corporation of Chennai in the year 1969 would be a development plan within the meaning of the Town and Country Planning Act of 1971.

49. It is the submission of the Honble Advocate General

and the learned Senior Counsel appearing on behalf of the respondents that the Master Plan for the metropolitan area of Chennai having come into force, the layout conditions imposed under the order dated 15.04.1969 stands nullified.

50. This submission is resisted by the petitioners, stating that one has no relationship with the other and the submission is without any substance.

51. Let me now look into the Tamil Nadu Town and Country Planning Act, 1971, Development Control Regulations

(DCR) which were in existence earlier and the appropriate provisions of the TNCDBR.

52. For the city of Chennai, the CMDA is the specialised

planning body. It is constituted under Section 9-A of 1971 Act. One of the primary functions of CMDA is to carry out a survey and on that basis, prepare a Master Plan, a Detailed Development Plan or a New Town Development Plan for the Chennai Metropolitan Planning Area. This is as per Section 9-C. The contents of a Master Plan is covered under Section 17.

53. Master Plan, inter alia, provides as to the manner in

which the land in the planning area should be used, zoning regulations like residential, commercial, industrial etc., infrastructure reservations and the stages by which the Master plan shall be carried out.

54. On preparation of a draft by the CMDA, the same is

submitted to the State Government seeking its consent for publication of the same. The Government has the power to suggest modifications as it thinks fit. In case, any suggestions are so made, the CMDA has to make the modifications suggested and submit the same to the Government. Once the Government

grants consent to publish, the draft of the Master Plan has to be published in the Government Gazette as well as in the leading dailies, having circulation in the region covered by the Master Plan. In this case, it is the city of Chennai. On such publication, any person can submit objections or suggestions for modifications. After considering the objections or suggestions, if any, the CMDA submits the final Master Plan to the Government for sanction. This is done under Sections 24 to 28 of the Act. The Master Plan become operational, once it is published in the Tamilnadu Government Gazette. This is as per Section 30 of the Act.

55. The first Master plan for the city of Chennai came into

force with effect from 04th December 1976. It was designed for a 20 year period between 1976 and 1996. The second Master Plan was approved in 2008 and it is to be implemented till 2026. The CMDA is supposed to prepare the third Master Plan for the Chennai Metropolitan Area for the period between 2027 and 2046.

56. The analysis of the sections shows that a Master Plan

is a vision document. It covers the entire Chennai Metropolitan Area and contemplates developments way into the future. The primary goal of a Master Plan is the future growth and the entire vision for the city. The primary content of the Master Plan is that of land use, infrastructure and zoning. It states how the game should be played for the entire Chennai Metropolitan Area.

57. Insofar as the building construction application is

concerned, it falls under Chapter VI of the Tamil Nadu Town and Country Planning Act, 1971. This Chapter has 11 Sections running from Section 47 to Section 58. It is titled as Control of Development and Use of Land.

58. Under Section 47, once a Master Plan comes into force,

no person other than the State Government, Central Government or local authority can use or develop a land in any way that conflicts with the Master Plan. By virtue of this Section, the vision document of a Master Plan is brought into force. Unless and until the land used is in compliance with the zoning regulations, no development is permissible. It is not in dispute, across the bar, that the area covered under the writ petition is a residential use zone.

59. By Section 48 of the 1971 Act, no person can carry out

any activity of development or change the land use without obtaining prior permission from the CMDA, and in accordance with the conditions, if any, specified therein.

60. The power to grant planning permission is found under

Section 49 of the 1971 Act. The important provision under this section is Section 49(2). Prior to granting permission to develop the land or building, the planning authority should have regard to the purpose for which the permission is sought for, the suitability of the place for the said purpose and the future development and maintenance of the planning area.

61. As per Section 50 of the 1971 Act, once such a permission is granted, it is to remain in force for a stated period from the date of grant of permission.

62. By Section 51 of the 1971 Act, developments, which have already commenced before coming into force of a Master Plan or a Detailed Development Plan, are exempted from the requirements of Section 48.

63. By Section 52 of the 1971 Act, if the planning

permission is refused on account of any reservation or designation in any development plan, any persons interested in the land or building can give a notice to the Government stating that the land or building has become incapable of being reasonably used in its existing state and hence, the Government should acquire his or her interest in the land or building.

64. The manner of payment of compensation is found

under Section 53. By virtue of Section 54, the appropriate planning authority is entitled to revoke or modify the plan already granted. Sections 56 and 57 have vested extensive powers with the authorities to take immediate action to prevent any constructions or to remove any developments which are unauthorised. Section 58 is a special provision for the

developments undertaken by the State or Central Governments or local authorities who have been exempted under Section 47.

65. The pertinent provision for the purpose of this case is

Section 49 of the 1971 Act. While granting permission for development, the CMDA is entitled to call for details and documents as may be prescribed for that purpose.

66. I will now turn to the relevant provisions of TNCDBR, 2019.

67. These regulations, as seen earlier, have been framed

invoking several rule-making powers including Sections 32 and 122 of the 1971 Act. Rule 6 of the TNCDBR, 2019 deals with the manner of obtaining planning permission. Under Rule 6(8) of the TNCDBR, 2019, an application in conformity with Form-B has to be filed. Under Clause-7, Form-B, the layout details together with the copies of approval would have to be furnished. This shows that prior to the grant of approval, the authority must be satisfied that the proposed development is an

approved layout

and also that the proposal for development is in accordance with the conditions laid therein.

68. In addition to these regulations, under Section 49(2)(b)

of the 1971 Act, the CMDA has to take into consideration the suitability of the place for the purpose of development. The word suitability not only contemplates zoning regulations, but is wide enough to include the layout conditions also.

69. The plea that TNCBDR, 2019 overrides the conditions

imposed under the layout plan is equally untenable. Rule 32 of TNCBDR, 2019 indicates that, only in case there is a conflict between TNCBDR and regulations under other rules for the time being in force, the latter gets suspended to the extent of conflict with TNCBDR. No rule, has been pointed out by Honble the Advocate General or by the learned Senior Counsel appearing for the respondents, in the TNCBDR, which overrides the pre-existing layout conditions. Hence, the argument that the layout conditions got nullified on the promulgation of TNCBDR, 2019 is nothing but a red-erring argument and accordingly, it is rejected.

70. Mr.Murali pleaded that the conditions, having been

imposed as early as 1969, should continue forever. I am not agreeable with this submission also. I have already concluded that the Town Planning Scheme sponsored by Ms.Menaka Parthasarathy is a detailed development plan within the meaning of Section 34 of the 1971 Act. If such being the position, under Section 54, the appropriate planning authority is entitled to revoke or modify the said plan. The limitation placed on the exercise of such power is that an opportunity must be given to any person, who opposes such revocation or modification.

71. I finally turn to the submission of Honble the Advocate

General and the learned Senior Counsel that the conditions imposed under the 1920 legislation and the 1971 legislation automatically stand repealed by virtue of TNCDBR, 2019 having come into force.

72. As to how a repeal and savings clause must be interpreted has been settled over a long period of time. I need not capture here the several authorities, which have laid down the

position. Suffice it to say that, for the purpose of interpreting a repeal and savings clause, I must look at the legislative intent and apply the general principle that a repeal, unless a contrary intention is expressed, does not affect the existing rights, liabilities, or legal proceedings that have been initiated under the former legislation. This is because, the clause helps to maintain the continuity by preserving past actions, existing rights and legal processes. It also protects accrued rights, privileges and liabilities.

73. As pointed out above, a layout plan approved under the Madras Town Planning Act of 1920 is deemed to be a plan within the meaning of the 1971 Act.

74. A reading of Rule 74 of TNCDBR, 2019 shows that the

intention of the rule is to repeal the existing rules, regulations, bye-laws, orders, which are inconsistent and in conflict with the TNCDBR, 2019. It was not the intention when the TNCDBR, 2019 was notified, to repeal all the conditions and regulations which have been in force and present a clean slate to the Town Planning Authorities to draw upon. Such an intention cannot be

imputed also, since as pointed out above, past actions, existing rights and legal processes would have to be saved.

75. A repeal and savings clause cannot be read wider than

what it specifies. Rule 74(1) does not repeal the conditions that have been laid out in a layout plan. Furthermore, they are repealed only insofar as they are inconsistent with the 2019 Rules. It has not been pointed out by the respondents as to how the layout conditions are against any of the rules contemplated under the TNCDBR, 2019. Hence, I am not in a position to read Rule 74 as one repealing all the earlier conditions, even if not in conflict with the 2019 regulations and presenting a tabula rasa to the Town Planning Authorities to proceed further, as if, all that has been done from 1920 till 2019 stands nullified. Furthermore, if a savings clause conflicts with the main statute, it should be interpreted consistently with the legislative intent of the main Act.

76. I have pointed out that the manner of alteration of a development plan is found under Section 54 of the Town and Country Planning Act, 1971. A regulation made under the parent

legislation cannot be so interpreted to nullify the power that has been conferred on the Planning Authority by the parent legislation. I should point out that the TNCDBR, 2019 has been brought, inter alia, in exercise of the powers conferred under Section 32(4) read with Section 122 of the 1971 Act. Hence, TNCDBR, 2019 is subordinate to the 1971 Act and cannot be so interpreted to nullify a provision in the parent statute.

77. Let me now turn to the authorities cited by the learned counsel for the respective parties.

78. In *Sridhar and another v. N. Revanna and others*,

(2020) 11 SCC 221, the issue presented before the Supreme

Court involved the interpretation and consequent enforcement of conditions imposed in a gift deed. The appellants before the Supreme Court were the plaintiffs in the suit. They challenged the sale deed executed by the first respondent, Mr.N.Revanna. Mr.N.Revanna had

received a property as a gift from his grandfather, one Mr.Muniswamappa.

79. The plea of the plaintiffs was that the gift deed

restricted the power of Mr.Muniswamappa and his descendants from alienating the property. Despite this condition, Revanna had executed sale deeds on 07.10.1985, 08.10.1985 and 10.10.1985 in favour of the respondents 2 to 5. Consequently, the plaintiffs sought declaration of their title and to declare the sale deeds executed by Mr.N.Revanna in favour of the respondents 2 to 5 as null and void.

80. The Supreme Court relied upon Section 10 of Transfer

of Property Act to hold that the conditions imposed by Muniswamappa restraining the beneficiary from alienating the property absolutely is void. The judgment affirmed that Section 10 of the Transfer of Property Act takes precedent over any private arrangement that attempts to impose absolute restriction on alienation of properties. This judgment is a proposition for the point that any condition imposed regarding alienation should be in accordance with the Transfer of Property Act and cannot override the same. The gift deed can contain conditions, but the enforceability of such conditions is subject to the Transfer of

Property Act. This judgment did not deal with the scope of imposition of conditions for development of a land by the statutory authorities exercising their powers under the legislation. Hence, it is inapplicable to the facts of the present case.

81. The next judgment relied upon by Honble the Advocate

General is Madhya Pradesh Housing and Infrastructure Development Board and another v. Vijay Bodana and Others, (2020) 4 SCC 521. The facts of the case were that the Madhya Pradesh Housing Board developed a colony titled Indira Nagar, in Ujjain. It applied for sanctioning

of this layout. The plan was also sanctioned by designating a large extent of property to serve as a commercial shopping complex. The housing board applied for modification of this plan to change the use from commercial to residential.

82. The original plan had been approved in 1981 and the

modification had been sought in 2004. After the files had gone around the Madhya Pradesh Government, the Town Planning Authorities, on a direction of the State Government, approved

the modification sought for in 2008. This modification was challenged by the respondents before the High Court of Madhya Pradesh by way of a writ petition in 2015. It was the petitioners plea that the original allottees, pursuant to the layout plan in the year 1981, had paid premium price expecting that a shopping complex would be developed and any change in the layout plan is contrary to the principle of promissory estoppel. The High Court agreed with the writ petitioners and quashed the modification granted in the year 2008 and also the deeds executed thereto. Aggrieved by the same, an appeal was preferred to the Supreme Court.

83. After a detailed analysis of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam of 1973, the Court came to a

conclusion that the Madhya Pradesh Housing Board had

followed all the procedures statutorily required for modification of the plan approved in the year 1981. Consequently, it held that the principle of promissory estoppel cannot be put against the lawful modification of a layout plan by a development authority, especially when the authority had followed the appropriate statutory procedures.

84. In the present case, the CMDA, instead of following the

statutory procedures as required under the Tamil Nadu Town and Country Planning Act of 1971, has taken a view that by virtue of the TNCDBR 2019, the conditions that had been earlier imposed stand repealed. I have found that the plea of total repeal is legally untenable. I have also pointed out that the modification is permissible, only if resort is made to Section 54 of the 1971 Act. That not having been done, the judgment of the Supreme Court, instead of going in favour of the respondents, goes against their stand.

85. The next judgment cited by the Honble the Advocate

General is Tamil Nadu Housing Board v. Mary Rani Immanual, 2013 SCC OnLine Mad 1503. The issue presented before the Full Bench was whether the purchasers from the Housing Board and the subsequent purchasers from them are required to obtain 'No objection certificate' from the Housing Board for demolishing the existing structures and putting up new superstructures. The Full Bench held that once the Housing Board had executed a sale deed and had transferred the

ownership of property including the undivided share in the land to the allottees, it loses all its rights over the property and cannot insist upon issuance of no objection certificate to develop the property.

86. The Full Bench further held that the sale deeds

executed by the Tamil Nadu Housing Board in favour of the allottees had granted absolute ownership rights to the allottees, which encompass the common areas also. It found that re- development of the property requires an agreement of all the owners. It upheld the right of apartment owners under the erstwhile Tamil Nadu Apartment Ownership Act of 1994, when put against the claims of the Housing Board, after sale deeds had been executed. The proposition of law, which flows out of this judgment is that once a sale deed has been executed, either by a private

party or by an instrumentality of the State like the Housing Board, the vendor cannot insist on enforcing conditions which are contrary to the absolute sale deed executed.

87. I am afraid that I cannot apply this judgment to the present case as the issue is not one about the sale deed executed

by Ms.Menaka Parathasarathy in favour of the petitioners and the private respondents and the subsequent purchasers. The issue is whether the statutory conditions imposed by the Town Planning Authorities under the layout plan are valid, binding and enforceable. I should point out that in Mary Rani Immanuials case, in paragraph 19, the court had held that the nature of the property cannot be altered by the purchasers. That is to say, if the property had been sold by the Housing Board as a residential block, it cannot be converted into a commercial block. In other words, the court had upheld the zoning regulations on the basis of which the Housing Board had developed residential units and had prevented the same from being converted into a commercial unit, in exercise of the sale deed that had been executed in favour of the allottees/subsequent purchasers. This shows that if the Housing Board had obtained approvals, on the basis of statutory conditions imposed by the town planning authorities, even post the sale to third parties, the conditions continue to operate.

88. In the light of the above discussions, the conclusion

that I arrive at are as follows:

(i) the conditions imposed by the Corporation of Chennai through its Assistant Engineer, Town Planning on 15.04.1969 was in accordance with Section 4 of the Town and Country Planning Act of 1920.

(ii) Such a detailed development plan is deemed to be a plan within the Tamil Nadu Town and Country Planning Act of 1971 by virtue of Section 34.

(iii) Any modification or revocation of the conditions imposed for such a plan, can be done only in terms of Section 54 of the Town and Country Planning Act of 1971.

(iv) Since Section 54 has not been resorted to by the State and as they have presumed that the TNCDBR, 2019 repeals the layout conditions, this court is constrained to interfere.

89. In view of the above, the writ petition succeeds. The

impugned order is quashed. This order will not stand in the way of the CMDA from exercising powers strictly in accordance with Section 54 of the Town and Country Planning Act, 1971. No costs. Consequently, the connected miscellaneous petition is closed. 22.04.2026 krk/nl Index : Yes/No

Speaking / Non-speaking order

Neutral Citation : Yes / No To 1.The Secretary to Government, Ministry of Housing and Urban Development, Fort.St.George, Chennai - 600 009.
2.The Member Secretary, Chennai Metropolitan Development Authority, Thalamuthu Natarajan Building, No.8, Gandhi Irwin Road, Chennai - 600 008. 3.The Commissioner, Corporation of Madras, Chennai - 600 009.

V.LAKSHMINARAYANAN, J.

krk/nl 22.04.2026

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