

PROCEEDINGS OF THE MEMBER SECRETARY, C.M.D.A., CHENNAI-600 008.
PRESENT: THIRU VIKRAM KAPUR, I.A.S.

Proc.No.RT/3849/2009

Dated:21.05.2009.

Sub: CMDA – APU – RT & Appeal Division – Further instructions on Enforcement action and demolition with reference to amended T.N.Act 61 of 2008 dt.2.12.2008 – Delegation of powers to Local Bodies within CMA – Orders issued – Regarding.

- Ref: 1. Proc.No.Misc./13198/85-9, dated 03.02.1986.**
2. Proc.No.Misc./13198/85, dated 12.03.1986.
3. Proc.No.Misc./1607/82, dated 24.01.1991.
4. Circular No.ES3/19459/97, dated 28.02.1998.
5. Circular No.RT1/12393/05, dated 27.04.2005.
6. Proc.No.RT1/12393/05, dated 06.06.2005.
7. Proc.No.RT/5039/2008A-D, dated 04.09.2008.
8. G.O.Ms.No.253, H&UD Dept., dated 10.12.2008.
9. Authority Resolution A.R.No.7/2009, dated 22.01.2009.

ORDER:

In exercise of powers under sub-section 3 of Section 9(c) of T&CP Act 1971, the CMDA by its proceedings cited has delegated powers to the local bodies under various sections of T&CP Act 1971. Such delegation includes powers for issue of Planning Permission as per DR's and also to take action against the unauthorised/deviated constructions. This delegations empowers the local bodies in CMA to take punitive action against unauthorised/deviated constructions, which includes demolition proceedings.

2. In order to have effective action against the unauthorised/deviated constructions and to curb the same, certain draft amendments to T&CP Act 1971 were approved by the Authority in A.R.No.30/2008 dated 29.01.2008. The draft amendments to T&CP Act were sent to Government for making necessary amendments to the T&CP Act 1971. The proposed amendments were placed before the Legislative Assembly by the Government and the Assembly approved the amendments with certain modifications vide Tamil Nadu Act 61 of 2008. The same have been published in the Tamil Nadu Government Gazette (Extraordinary) dated 02.12.2008. The Government have issued orders in G.O.Ms.No.253, H&UD Dept., dated 10.12.2008 forwarding the amended Tamil Nadu Act 61 of 2008 and the Act had come into force with effect from 10.12.2008.

3. In the light of amendment to T&CP Act-1971, action has to be taken against the unauthorised constructions including locking and sealing of the premises which are under progress/commenced. Such action shall be taken up as per the amended Tamil Nadu Act 61 of 2008. The relevant notifications of Tamil Nadu Government Gazette (Extraordinary) dated 27.07.2008 and 02.12.2008 are enclosed. All Local Bodies viz. Corporation, Municipalities, Town Panchayats and Panchayat Unions within CMA are hereby delegated powers to act upon the amended T.N. Act 61 of 2008.

4. The revised formats of locking, sealing and demolition notice are enclosed. The same shall be adopted with suitable modifications.

5. The above instructions/guidelines shall be followed scrupulously.

Sd/-XXXX
MEMBER-SECRETARY.

Encl:

1. Govt., Gazette Notification dated 27.07.2008 and 2.12.2008(amended T.N. Act 61 of 2008).
2. Formats of Locking, sealing and demolition notice.

To

1. The Commissioner, Corporation of Chennai, Chennai-3.
2. The Executive Engineer, 1 to X Zones – within Corporation of Chennai.
3. The Commissioners/Executive Officers, All Municipalities in CMA.
4. The Executive Officers, All Town Panchayats in CMA.
5. The Commissioners, All Panchayat Unions in CMA.

Copy to:

1. The Principal Secretary, H&UD Dept., Secretariat, Chennai-9.
2. The Principal Secretary, Rural Development Dept., Chennai-9.
3. The Secretary, MAWS Dept., Chennai-9.
4. The Director, Municipal Administration, Chennai-5.
5. The Commissioner of Town Panchayat, Kuralagam, Chennai.
6. The Director, Rural Development and Panchayat Raj, Panagal Building, Chennai-15.
7. The Collector, Chennai, Thiruvallur and Kancheepuram District.
8. P.S. to Vice-Chairperson, CMDA.
9. P.S. to Member-Secretary, CMDA.
10. P.C. to Member & Chief Planner, CMDA.
11. P.C. to Chief Planner, Enforcement Cell, CMDA.
12. P.C. to Senior Planner, RT & A Division, CMDA.

//True copy//Forwarded//By order//

Bann
25/5/09
ASSISTANT PLANNER.

MENT OF TAMIL NADU
2008

[Regd. No. TN/CCN/117/2006-08.
[Price: Rs. 3.20 Paise.



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

CHENNAI, SUNDAY, JULY 27, 2008
Aadi 12, Thiruvalluvar Aandu-2039

Part IV—Section 2 Tamil Nadu Acts and Ordinances

CONTENTS

ORDINANCE

Pages

No. 4 of 2008—The Tamil Nadu Laws (Special Provisions)
Ordinance, 2008

180-186

AND WHEREAS, in the Special Leave Petitions filed before the Supreme Court of India against the above Judgement of High Court of Madras, quashing the above said Tamil Nadu Ordinance, 1 of 2007 and the said Tamil Nadu Act 39 of 2007, the Supreme Court has ordered that *status quo* as on 14-12-2007 shall be maintained until further orders and the petitioners shall not pass any order of regularization in the meantime;

AND WHEREAS, the validity of the said Tamil Nadu Act 39 of 2007 is pending before the Supreme Court of India and the said Tamil Nadu Act 39 of 2007 will cease to operate from the 27th day of July 2008.

AND WHEREAS, there is a need to make provisions to deal with deviations which may be marginal or gross in nature in a balanced and just manner without compromise on the safety and transport mobility but at the same time keeping in view the spirit and text of judicial pronouncements;

AND WHEREAS, the modern requirements of fire safety precautions in commercial and shopping centers should be gone through thoroughly evolving a safety measure and to make provisions to empower the planning authority suitably;

AND WHEREAS, the committee headed by the retired Supreme Court Judge sought for more time for submitting report and the Government will require more time to consider the report of the retired Supreme Court Judge and there is an urgent need for deferring enforcement action against unauthorized buildings;

AND WHEREAS, the purpose and objective of the Tamil Nadu Laws (Special Provisions) Act, 2007 has not been subserved and it is expedient to have a law to provide temporary relief to the people of Chennai Metropolitan Planning Area against such action for a period up to 26th July, 2009 within which various issues referred to above to be finalized;

AND WHEREAS, it is expedient to have a law for a period of one year to provide temporary relief and to minimise hardships and irreparable loss to a large number of people including small traders;

AND WHEREAS, the Legislative Assembly of the State is not in session and the Governor of Tamil Nadu is satisfied that circumstances exist which render it necessary for him to take immediate action for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor hereby promulgates the following Ordinance:—

1. (1) This Ordinance may be called the Tamil Nadu Laws (Special Provisions) Ordinance, 2008.

(2) It extends to the Chennai Metropolitan Planning Area.

(3) It shall come into force at once.

(4) It shall cease to have effect on the expiry of one year from the date of its commencement, except as respects things done or omitted to be done before such cesser, and upon such cesser section 8 of the Tamil Nadu General Clauses Act, 1891, shall apply as if this Ordinance had then been repealed by a Tamil Nadu Act.

Short title,
extent and
commence-
ment.

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) "building rules, regulations and bye-laws" means rules, regulations and bye-laws made under the Chennai City Municipal Corporation Act, 1919, the Tamil Nadu District Municipalities Act, 1920 and the Tamil Nadu Panchayats Act, 1994 as the case may be, relating to buildings;

Tamil Nadu
Act IV of
1919.

Tamil Nadu
Act V of
1920.

Tamil Nadu
Act 21 of
1994.

(b) "Chennai Metropolitan Planning Area" means the Chennai Metropolitan Planning Area specified under clause (23-a) of section 2 of the Tamil Nadu Town and Country Planning Act, 1971;

Tamil Nadu
Act 35 of
1972.

(c) "detailed development plan" means a detailed development plan approved under the Tamil Nadu Town and Country Planning Act, 1971, in respect of any area covered under the Chennai Metropolitan Planning Area;

Tamil Nadu
Act 35 of
1972.

(d) "Development Control Rules" means the Development Control Rules for Chennai Metropolitan Planning Area;

(e) "Government" means the State Government;

(f) "local authority" means the Chennai City Municipal Corporation established under the Chennai City Municipal Corporation Act, 1919 or Municipalities or Town Panchayats (within Chennai Metropolitan Planning Area) established under the Tamil Nadu District Municipalities Act, 1920 or Panchayat Unions or Village Panchayats (within Chennai Metropolitan Planning Area) established under the Tamil Nadu Panchayats Act, 1994 or the Chennai Metropolitan Development Authority constituted under the Tamil Nadu Town and Country Planning Act, 1971, legally entitled to exercise control in respect of the areas under their respective jurisdictions;

Tamil Nadu
Act IV of
1919.

Tamil Nadu
Act V of
1920.

Tamil Nadu
Act 21 of
1994.

Tamil Nadu
Act 35 of
1972.

Tamil Nadu
Act 35 of
1972.

(g) "Master Plan" means the Master Plan for Chennai Metropolitan Planning Area, published under the Tamil Nadu Town and Country Planning Act, 1971;

(h) "public street" means public street as defined in clause (37) of section 2 of the Tamil Nadu Town and Country Planning Act, 1971;

Tamil Nadu
Act 35 of
1972.

(i) "punitive action" means action taken by local authority within Chennai Metropolitan Planning Area under the relevant law against unauthorized development and shall include demolition, whether in pursuance of court orders or otherwise;

(j) "relevant law" means in case of—

(i) the Chennai Metropolitan Development Authority, the Tamil Nadu Town and Country Planning Act, 1971;

Tamil Nadu
Act 35 of
1972.

(ii) the Chennai City Municipal Corporation, the Chennai City Municipal Corporation Act, 1919;

Tamil Nadu
Act IV of
1919.

(iii) the Municipalities and Town Panchayats, the Tamil Nadu District Municipalities Act, 1920; and

Tamil Nadu
Act V of
1920.

(iv) the Panchayat Unions and Village Panchayats, the Tamil Nadu Panchayats Act, 1994;

Tamil Nadu
Act 21 of
1994.

(k) "unauthorized development" means use of any land or any building or construction of any building carried out,—

- (i) in deviation from any planning permission or building permit; or
- (ii) without obtaining any planning permission or building permit; or
- (iii) in contravention of the land use zoning under the Master Plan or any approved detailed development plan; or

(iv) in contravention of the Development Control Rules for Chennai Metropolitan Planning Area, building rules, regulations, bye-laws applicable to areas within the Chennai Metropolitan Planning Area;

and includes unauthorized occupation by hawkers and street vendors in the public street and by the people in the slum area.

(2) The words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Tamil Nadu Town and Country Planning Act, 1971, the Chennai City Municipal Corporation Act, 1919, the Tamil Nadu District Municipalities Act, 1920 and the Tamil Nadu Panchayats Act, 1994.

3. (1) Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the Government shall within a period of one year from the date of commencement of this Ordinance, take all possible measures, with due regard to environment, to finalise norms, policy guidelines and feasible strategies to deal with the problems of unauthorized developments with regard to the under mentioned categories, namely:—

Government to finalise norms and policy guidelines etc.

(a) land use not conforming to, the Master Plan, detailed development plans or any Planning permission;

(b) construction in deviation from or beyond planning permission or building permit;

(c) development without any planning permission or building permit; and

(d) unauthorized occupation by, the hawkers and street vendors, in the public street and by the people in slum area; so that the developments of Chennai Metropolitan Planning Area take place in a sustainable and planned manner.

(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, *status quo* as on the date of the commencement of this Ordinance shall be maintained in respect of the categories of unauthorized development mentioned in sub-section (1).

(3) All notices issued by any local authority or any authority empowered under relevant law for initiating action against the categories of unauthorized development mentioned in sub-section (1) prior to 27th day of July 2007 shall be deemed to have been suspended and no punitive action shall be taken during the said period of one year.

(4) Notwithstanding any other provision contained in this Ordinance, the Government may, at any time, before the expiry of one year withdraw the concession given in sub-section (2) or sub-section (3) as the case may be, by notification in the Tamil Nadu Government Gazette in respect of the categories of unauthorized development mentioned in sub-section (1).

Nadu
35 of

Nadu
IV of

Nadu
V of

Nadu
21 of

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

The provisions
of this
Ordinance
not to apply
in certain
cases.

4. During the period of operation of this Ordinance, no relief shall be available under section 3 in respect of the following categories of unauthorized development, namely:—

(a) any unauthorized development started or continued on or after the 27th day of July 2007;

(b) commencement of any activity anywhere in the Chennai Metropolitan Planning Area in violation of the provisions of the Master Plan or any detailed development plan on or after the 27th day of July 2007;

(c) unauthorized occupation on public street except in those cases which are covered under clause (d) of sub-section (1) of section 3; and

(d) removal of people in slum area, hawkers and street vendors in accordance with policies of the Government, for clearance of land required for any public project.

5. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law made by the legislature of the State for the time being in force.

6. The Government may, from time to time issue such directions to any local authority or any authority under any relevant law as it may deem fit, for giving effect to the provisions of this Ordinance and it shall be the duty of such local authority or authority to comply with such directions.

Ordinance to
override
other laws.

Power to give
directions.

25th July 2008.

SURJIT SINGH BARNALA,
Governor of Tamil Nadu.

EXPLANATORY STATEMENT.

There has been rapid increase in the population owing to industrialization, migration and various other factors, putting pressure on land and infrastructure in the Chennai Metropolitan Planning Area leading to unauthorized developments which are not in conformity with the provisions of the Acts, building rules, regulations and bye-laws in force in the Chennai Metropolitan Planning Area.

2. The Government have constituted a committee headed by a retired Supreme Court Judge to look into all aspects of developments and to suggest necessary modifications to the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972). The committee is looking into the aspects including various aspects of unauthorized constructions and unauthorized use of the premises and yet to submit its recommendation. It is expected that the recommendations of the committee aforesaid may involve substantial amendments to the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) and some with retrospective effect, and in particular to the provisions relating to construction and use of the premises, thereby changing the position as obtaining now under the said Act.

3. The Chennai Metropolitan Development Authority has prepared the draft Master Plan II for Chennai Metropolitan Planning Area, with the perspective year 2026 keeping in view the emerging new dimensions in urban development, and the finalization of the Master Plan-II for Chennai Metropolitan Planning Area, 2026 is likely to take some more time. It is also expected that the Master Plan II for Chennai Metropolitan Planning Area 2026 may change the present position in urban development.

4. A comprehensive policy for the improvement of slum areas and resettlement of the people in slum area wherever necessary in the Chennai Metropolitan Planning Area is contemplated by the State Government.

5. A detailed study of the issues relating to unauthorized occupation by the vendors and hawkers in the public streets is contemplated with a view to evolving a scheme for regulating their activities in terms of the Master Plan II.

6. Action for violation of the provisions of the Acts, buildings rules, regulations, bye-laws in force in the Chennai Metropolitan Planning Area before a final view is taken in the matter by the Government may cause avoidable hardship and irreparable loss to a large number of people including small traders.

7. The Government have, therefore, enacted the Tamil Nadu Laws (Special Provisions) Act, 2007 (Tamil Nadu Act 39 of 2007) so as to defer the enforcement action by the authorities against the violation of laws in force. The validity of the said Act, has been challenged before the High Court, Madras and a Division Bench of High Court, Madras has quashed the said Act. The Government have filed Special Leave petition before the Supreme Court of India against the above Judgment of High Court, Madras. The Supreme Court of India has ordered to maintain the status-quo as on 14-12-2007. Since, the said Tamil Nadu Act 39 of 2007 will cease to operate from the 27th day of July, 2008, there is an urgent

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

need to defer such enforcement action in Chennai Metropolitan Planning Area for a period of one year. The Government have, therefore, decided to bring in a legislation for the above purpose.

8. The Ordinance seeks to give effect to the above decision.

(By order of the Governor)

S. DHEENADHAYALAN,
*Secretary to Government,
Law Department.*



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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CHENNAI, FRIDAY, JULY 27, 2007
Aadi 11, Sarvajith, Thiruvalluvar Aandu-2038

Part IV—Section 2

Tamil Nadu Acts and Ordinances

The following Ordinance which was promulgated by the Governor on the 27th July 2007 is hereby published for general information:—

TAMIL NADU ORDINANCE No. 1 OF 2007.

An Ordinance to make special provisions for Chennai Metropolitan Planning Area for a period of one year and for matters connected therewith or incidental thereto.

WHEREAS, there had been rapid increase in the population owing to industrialization, migration and various other factors, putting pressure on land and infrastructure in the Chennai Metropolitan Planning Area leading to unauthorized developments which are not in conformity with the first Master Plan for Chennai Metropolitan Planning Area in force, the Development Control Rules contained therein and the building rules, regulations and bye-laws;

AND WHEREAS, the Government have constituted a committee headed by a retired Supreme Court Judge to look into all aspects of developments and to suggest necessary modifications to the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);

AND WHEREAS, it is expected that the recommendations of the committee aforesaid may involve substantial amendments to the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) and some with retrospective effect, and in particular to the provisions relating to construction and use of the premises, thereby changing the position as obtaining now under the said Act;

AND WHEREAS, Chennai Metropolitan Development Authority has prepared the draft Master Plan II for Chennai Metropolitan Planning Area, with the perspective year 2026 keeping in view the emerging new dimensions in urban development, which has been published inviting public objections and suggestions giving time upto 31-8-2007, and that the finalization of the Master Plan-II for Chennai Metropolitan Planning Area, 2026 is likely to take some more time;

AND WHEREAS, it is expected that the Master Plan II for Chennai Metropolitan Planning Area 2026 may change the present position in urban development;

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

AND WHEREAS, a comprehensive policy for the improvement of slum areas and resettlement of the people in slum area wherever necessary in the Chennai Metropolitan Planning Area is contemplated by the State Government;

AND WHEREAS, a detailed study of the issues relating to unauthorized occupation by the vendors and hawkers in the public street is contemplated with a view to evolving a scheme for regulating their activities in terms of the Master Plan II;

AND WHEREAS, action for violation of the provisions of the first Master Plan for Chennai Metropolitan Planning Area in force and Development Control Rules contained therein, before a final view is taken in the matter by the Government may cause avoidable hardship and irreparable loss to a large number of people including small traders;

AND WHEREAS, the Legislative Assembly of the State is not in session and the Governor of Tamil Nadu is satisfied that circumstances exist which render it necessary for him to take immediate action for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor hereby promulgates the following Ordinance:—

1. (1) This Ordinance may be called the Tamil Nadu Laws (Special Provisions) Ordinance, 2007.

(2) It extends to the Chennai Metropolitan Planning Area.

(3) It shall come into force at once.

(4) It shall cease to have effect on the expiry of one year from the date of its commencement, except as respects things done or omitted to be done before such cessation, and upon such cessation section 8 of the Tamil Nadu General Clauses Act, 1891, shall apply as if this Ordinance had then been repealed by a Tamil Nadu Act.

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) "building rules, regulations and bye-laws" means rules, regulations and bye-laws made under the Chennai City Municipal Corporation Act, 1919, the Tamil Nadu District Municipalities Act, 1920 and the Tamil Nadu Panchayats Act, 1994, as the case may be, relating to buildings;

(b) "Chennai Metropolitan Planning Area" means the Chennai Metropolitan Planning Area specified under clause (23-a) of section 2 of the Tamil Nadu Town and Country Planning Act, 1971;

(c) "detailed development plan" means a detailed development plan approved under the Tamil Nadu Town and Country Planning Act, 1971, in respect of any area covered under the Chennai Metropolitan Planning Area;

(d) "Development Control Rules" means the Development Control Rules for Chennai Metropolitan Planning Area;

(e) "Government" means the State Government;

(f) "local authority" means the Chennai City Municipal Corporation established under the Chennai City Municipal Corporation Act, 1919 or Municipalities or Town Panchayats (within Chennai Metropolitan Planning Area) established under the Tamil Nadu District Municipalities Act, 1920 or Panchayat Unions or Village Panchayats (within Chennai Metropolitan Planning Area) established under the Tamil Nadu Panchayats Act, 1994 or the Chennai Metropolitan Development Authority constituted under the Tamil Nadu Town and Country Planning Act, 1971, legally entitled to exercise control in respect of the areas under their respective jurisdictions;

(g) "Master Plan" means the Master Plan for Chennai Metropolitan Planning Area, published under the Tamil Nadu Town and Country Planning Act, 1971;

(h) "public street" means public street as defined in clause (37) of section 2 of the Tamil Nadu Town and Country Planning Act, 1971;

Tamil Nadu Act I of 1891.

Tamil Nadu Act IV of 1919.

Tamil Nadu Act V of 1920.

Tamil Nadu Act 21 of 1994.

Tamil Nadu Act 35 of 1972.

Tamil Nadu Act 35 of 1972.

Tamil Nadu Act IV of 1919.

Tamil Nadu Act V of 1920.

Tamil Nadu Act 21 of 1994.

Tamil Nadu Act 35 of 1972.

Tamil Nadu Act 35 of 1972.

Tamil Nadu Act 35 of 1972.

Short title,
extent,
commence-
ment and
duration.

Definitions.

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

(3) All notices issued by any local authority or any authority empowered under relevant law for initiating action against the categories of unauthorized development mentioned in sub-section (1) shall be deemed to have been suspended and no punitive action shall be taken during the said period of one year.

(4) Notwithstanding any other provision contained in this Ordinance, the Government may, at any time, before the expiry of one year withdraw the concession given in sub-section (2) or sub-section (3) as the case may be, by notification in the *Tamil Nadu Government Gazette* in respect of the categories of unauthorized development mentioned in sub-section (1).

4. During the period of operation of this Ordinance, no relief shall be available under section 3 in respect of the following categories of unauthorized development, namely:—

(a) any unauthorised development started or continued on or after the date of commencement of this Ordinance;

(b) commencement of any activity anywhere in the Chennai Metropolitan Planning Area in violation of the provisions of the Master Plan or any detailed development plan on or after the date of commencement of this Ordinance;

(c) unauthorized occupation on public street except in those cases which are covered under clause (d) of sub-section (1) of section 3; and

(d) removal of people in slum area, hawkers and street vendors in accordance with policies of the Government, for clearance of land required for any public project.

5. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law made by the legislature of the State for the time being in force.

6. The Government may, from time to time issue such directions to any local authority or any authority under any relevant law as it may deem fit, for giving effect to the provisions of this Ordinance and it shall be the duty of such local authority or authority to comply with such directions.

The provisions
of this
Ordinance
not to apply
in certain
cases.

Ordinance to
over-ride
other laws.

Power to give
directions.

27th July 2007.

SURJIT SINGH BARNALA,
Governor of Tamil Nadu.

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

EXPLANATORY STATEMENT.

There has been rapid increase in the population owing to industrialization migration and various other factors, putting pressure on land and infrastructure in the Chennai Metropolitan Planning Area leading to unauthorized developments which are not in conformity with the provisions of the Acts, building rules, regulations and bye-laws in force in the Chennai Metropolitan Planning Area.

2. The Government have constituted a committee headed by a retired Supreme Court Judge to look into all aspects of developments and to suggest necessary modifications to the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972). The committee will look into the aspects including various aspects of unauthorized constructions and unauthorized use of the premises. It is expected that the recommendations of the committee aforesaid may involve substantial amendments to the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) and some with retrospective effect, and in particular to the provisions relating to construction and use of the premises, thereby changing the position as obtaining now under the said Act.

3. The Chennai Metropolitan Development Authority has prepared the draft Master Plan II for Chennai Metropolitan Planning Area, with the perspective year 2026 keeping in view the emerging new dimensions in urban development, which has been published for public objections and suggestions giving time upto 31-8-2007 and the finalization of the Master Plan-II for Chennai Metropolitan Planning Area, 2026 is likely to take some more time. It is also expected that the Master Plan II for Chennai Metropolitan Planning Area 2026 may change the present position in urban development.

4. A comprehensive policy for the improvement of slum areas and resettlement of the people in slum area wherever necessary in the Chennai Metropolitan Planning Area is contemplated by the State Government.

5. A detailed study of the issues relating to unauthorized occupation by the vendors and hawkers in the public streets is contemplated with a view to evolving a scheme for regulating their activities in terms of the Master Plan II.

6. Action for violation of the provisions of the Acts, building rules, regulations, bye-laws in force in the Chennai Metropolitan Planning Area before a final view is taken in the matter by the Government may cause avoidable hardship and irreparable loss to a large number of people including small traders.

7. The Government have therefore decided to bring in a legislation to protect the owners and occupiers from the enforcement action in respect of unauthorized developments in Chennai Metropolitan Planning Area for a period of one year.

8. The Ordinance seeks to give effect to the above decision.

(By order of the Governor.)

S. DHEENADHAYALAN,
Secretary to Government-in-charge,
Law Department.



ABSTRACT

Act - Tamil Nadu Town and Country Planning (Amendment) Act, 2008 (Tamil Nadu Act 61 of 2008) - Date of commencement of the Act - Notification - Orders - Issued.

HOUSING AND URBAN DEVELOPMENT (UD-I) DEPARTMENT

G.O.(Ms).No.253

Dated: 10.12.2008

ORDER:-

The following Notification will be published in the Tamil Nadu Government Gazette, Extra-ordinary, dated the 10th December 2008.

NOTIFICATION

In exercise of the powers conferred by sub-section (2) of section 1 of the Tamil Nadu Town and Country Planning (Amendment) Act, 2008 (Tamil Nadu Act 61 of 2008), the Governor of Tamil Nadu hereby appoints the 10th day of December 2008, as the date on which the said Act shall come into force.

(By Order of the Governor)

R. Sellamuthu,
Principal Secretary to Government.

To
The Works Manager,
Govt. Central Press,
Chennai - 79. (for publication of the notification in the Extra-ordinary issue of Tamil Nadu Government Gazette)
The Secretary to Governor,
Raj Bhavan, Chennai - 22.
The Commissioner of Town and Country Planning, Chennai - 2.
The Member-Secretary,
Chennai Metropolitan Development Authority, Chennai - 8.

Copy to:-

The Law Department, Chennai - 9.
The Finance Department, Chennai - 9.
Secretary to Chief Minister, Chennai - 9.
Senior P.A to Minister (Information), Chennai - 9.
Law (Correction section) Department,
Chennai - 9 (2 copies)

// Forwarded / By Order //

Section Officer. 10-12-08

10/12/08

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(80000)



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

No. 364]

CHENNAI, TUESDAY, DECEMBER 2, 2008

Karthigai 17, Thiruvalluvar Aandu-2039

Part IV—Section 2

Tamil Nadu Acts and Ordinances

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 29th November 2008 and is hereby published for general information:—

ACT No. 61 OF 2008.

An Act further to amend the Tamil Nadu Town and Country Planning Act, 1971.

Enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Town and Country Planning (Amendment) Act, 2008.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. In section 56 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as the principal Act),—

Amendment of section 56

(i) in sub-section (1), the expression "within three years of such development" shall be omitted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2-A) If the owner or occupier, as the case may be, of land or building has not discontinued the use of such land or building as required in the notice served under sub-section (1), within the time specified therein, the appropriate planning authority if *prima-facie* satisfied, may take action to discontinue the use of such land or building by locking and sealing the premises in such manner as may be prescribed irrespective of pendency of any application under section 49 or appeal under section 79 or any litigation before a court. The owner or occupier, as the case may be, of such land or building shall provide security for such sealed premises."

(iii) in sub-section (4), in clause (a), after the expression "The notice", the expression "except the cases covered by clause (iii) of sub-section (2)" shall be inserted.

3. In section 57 of the principal Act,—

Amendment of section 57

(1) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Where the notice under sub-section (1) has been served, the owner or the person carrying out any development shall discontinue the development from the date of service of such notice and inform the fact of discontinuance to the appropriate planning authority."

(2) after sub-section (2), the following sub-sections shall be added, namely:—

"(3) If the owner or the person carrying out the development has not discontinued the development as required in the notice served under sub-section (1),—

(a) the appropriate planning authority may serve a notice on the owner requiring him within such period, being not less than seven days to remove that part of the building built subsequent to the notice served under sub-section (1). If the direction is not complied with, within the period specified therein, the appropriate planning authority may demolish that part of the building built subsequent to the notice served under sub-section (1) and reserve the right to recover the cost of any expenses incurred by it in this behalf from the owner, as an arrear of land revenue,

(b) the appropriate planning authority may also proceed to seize any construction material, tool, machinery, equipment, scaffolding, vehicle or any other thing used for such development and kept within the site for development,

(c) the material, tool, equipment, scaffolding, vehicle or any other thing so seized may be confiscated by such planning authority and sold by auction in such manner

as may be prescribed and the sale proceeds shall be credited to the Fund Account. No claim shall be made by the owner or any other person, on the material, tool, equipment, scaffolding, vehicle or any other thing confiscated and on the sale proceeds.

(4) Where the development as described in clauses (a) to (d) of sub-section (1) of section 56 is being carried out, the planning authority may also take action to discontinue the development by locking and sealing the premises, in such manner as may be prescribed, till the production of the planning permission from the appropriate planning authority as required under this Act.

(5) If the owner or the person carrying out the development has not complied with the requirement in the notices served under sub-section (1) or (3), within the period specified therein, the appropriate planning authority may prosecute the owner for not complying with the notice.

(6) If the development as described in clauses (a) to (d) of sub-section (1) of section 56 is discontinued, the provisions under sub-sections (3) and (4) of section 56 shall apply."

Insertion of
new section
80-A.

4. After section 80 of the principal Act, the following section shall be inserted, namely:—

"80-A. *Special Powers of Government.*—(1) Notwithstanding anything contained in section 80, the Government may, on application, call for and examine the records of the appropriate planning authority in respect of sealing of the premises under sub-section (2-A) of section 56 or under sub-section (4) of section 57 and if, in any case, it appears to the Government that any such action or decision should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that every application to the Government for the exercise of the powers under this section shall be preferred within thirty days from the date of sealing:

Provided further that such application for revision shall be disposed of by the Government within ninety days from the date of receipt of the application.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Government may pass such *interim* order, as they may deem fit, pending the exercise of the powers under sub-section (1) in respect thereof."

Amendment of
section 101

5. In section 101 of the principal Act, after the expression "in any court of law", the expression "and no injunction shall be granted by any court against the notices served to any person by the planning authority under section 56 or under section 57 of this Act" shall be added.

(By order of the Governor)

S. DHEENADHAYALAN,
Secretary to Government,
Law Department.

CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
ENFORCEMENT CELL
THALAMUTHU-NATARAJAN BUILDING
NO.1, GANDHI IRWIN ROAD, EGMORE, CHENNAI-600 008

STOP WORK NOTICE / NOTICE CALLING FOR APPROVED PLAN

Notice Under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act, 35 of 1972 as amended by Act.61 of 2008)

Notice No.

Dated:

Sub: CMDA – Construction work at
.....
Stop Work Notice/Production of approved plan issued
under Section 56 and 57 of Town and Country Planning Act.

Ref: Site Inspection made on
.....

Your construction at the site under reference was inspected. The construction is in deviation to the plans approved in Hence, you are requested to stop the construction with immediate effect and confirm in writing the fact of having done so, within 3 days from the date of receipt of this notice.

Your construction at the site under reference was inspected. No approved plan has been exhibited at the site or produced when called for. Therefore, you are requested to produce a copy of the approved plan in original for verification and if no approved plan is available or the construction is in deviation to the approved plan, you are requested to stop the work immediately and confirm in writing the fact of having done so, within 3 days from the date of receipt of this notice.

If you fail to comply with this notice within the stipulated time, this Authority will be constrained to taking legal action against the construction, including locking and sealing of the premises, seizure and confiscation of construction materials, auction of the materials seized, demolition of the building, prosecution of the owner, discontinuance of usage, recovery of cost of expenses as arrears of land revenue etc., under the provisions of the Town and Country Planning Act, 1971, as amended by Act 61 of 2008.

You may also note that once the building is sealed, it is the responsibility of the owner / occupier to provide security for such sealed premises, as per the provisions of the said Act.

for MEMBER SECRETARY
CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY,
CHENNAI - 600 008.

To

The Owner /
The Developer

BY REGD.POST WITH ACK.DUE

CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY, CHENNAI - 600 008.

DEMOLITION NOTICE (Sec.57)

Notice under Section 57 read with Section 85 of the Town and Country Planning Act, 1971, (Tamil Nadu Act, 35 of 1972 as amended by Act.61 of 2008), requiring Demolition of the construction put up unauthorisedly without Planning Permission required under Section 49 of the said Act).

Letter No.

Dated:

Sub: CMDA - Enforcement Cell () - Deviated construction /
Unauthorised construction without Planning Permission.

Ref: 1) Notice Calling for Approved Plan / Stop Work Notice No..... dt.....
2) Your reply dated

The construction of at premises bearing is
deviated / unauthorised one. The stage of construction as on is

It has been carried in deviation to approved plan / without planning permission required
under Section 49 of Town and Country Planning Act, 1971.

2. You have failed to stop the construction work in response to the Stop Work
Notice in the reference cited.

3. You are hereby called up to restore the land / building to its condition, as it
existed on, within 7 days from the date of receipt of this notice, failing
which action will be taken under Section 57, Sub-Section (3) Clause (a), (b), (c) and Sub-
Section (4) and (5) of Town and Country Planning Act, 1971, as amended by Act 61 of
2008, to restore the land / building to its conditions as it existed on ... without
any further notice to you.

for MEMBER SECRETARY.

To

The Owner/

The Developer.

BY REGD. POST WITH ACK. DUE

CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY, CHENNAI-600 008

FORM NO. I (Sec. 56)

LOCKING & SEALING AND DEMOLITION NOTICE

NOTICE Under Section 56 read with Section 85 of the Town and Country Planning Act, 1971, as amended by Act 61 of 2008 requiring Locking & Sealing and Demolition of the construction put up unauthorisedly without Planning Permission required under Section 49 of the said Act.

Letter No. _____

Dated: _____

Sub: CMDA – Enforcement Cell () – Unauthorised
construction without Planning Permission at

Ref: Stop Work Notice No. _____ dated _____

The construction of _____

at Premises bearing _____
is unauthorised one. It has been carried out without Planning Permission required under Section 49 of Town and Country Planning Act, 1971.

2. You have not produced copy of approved plan.

3. You are hereby called upon to restore the land to its condition before the said construction took place within 30 days from the date of receipt of this notice, failing which action will be taken under Section 56, Sub-Section (2A) and (5) Clause (a) and (b) (i) and (ii) Town and Country Planning Act, 1971 as amended by Act 61 of 2008 to lock & seal the premises and to demolish to restore the land to its condition without any further notice to you.

for MEMBER SECRETARY.

To

The Owner / Developer

The Occupants.

BY REGD. POST WITH ACK. DUE

CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY, CHENNAI - 600 008.

FORM NO. II (SEC. 56)

LOCKING & SEALING AND DEMOLITION NOTICE

NOTICE Under section 57 read with section 85 of the Town and Country Planning Act, 1971, as amended by Act 61 of 2008, requiring compliance with the planning Permission granted under Section 49 of the said Act by locking & sealing and demolishing the portions constructed in contravention of the permission.

Letter No.

Dated:

Sub: CMDA - Enforcement Division () - Construction at

Demolition notice issued - Reg.

Ref: 1. PP issued by CMDA vide

The construction of
building at premises bearing

has been examined and noted that the construction is in deviation to the sanctioned plan
and the deviations are as follows:

Sl.No	Description	As per appd plan	As on site	Deviation

p.t.o.

ii) Additional unauthorised floors :

iii) Other requirements :

Hence, you are hereby called upon to secure compliance with sanctioned plan, with in 30 days from the date of receipt of this notice, failing which action will be taken under Sec 56, Sub-Section (2A) and (5) Clause (a) and (b) (i) and (ii) Town and Country Planning Act, 1971, as amended by Act 61 of 2008 to secure the compliance of the sanctioned plan by locking & sealing of the premises and carrying out demolition of the unauthorised portion of the building without any further notice to you.

for Member – Secretary

To

The Owner /

The Developer.

The Occupiers

CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY, CHENNAI-8.

Notice Under Section-56(2) Sub-Clause (iii) and (2A) of Town and Country Planning Act 1971 (Tamil Nadu Act 35 of 1972 as amended by Act 61 of 2008).

Letter No. _____

Dated: _____

Sub: Discontinue occupation of the premises –
locking & sealing and demolition of
deviated / unauthorised construction at
.....
.....

Ref: 1. Stop Work Notice No..... dt.....
2. Demolition Notice in Lr. No.....dt.

...

In the above 1st reference, a notice was served on one
..... In disregard to the Notice, the Owner/Developer has
proceeded with the construction; therefore, a Demolition Notice was issued
by this office in the 2nd reference.

Meanwhile, the premises at
that has been constructed in deviation from the sanctioned plan being an
unauthorised construction, has been occupied by you.

Therefore, you are requested to discontinue the occupation of this
premises within 10 days from the receipt of this Notice, enabling this
Authority to carry out the locking & sealing and demolition in due course,
under the provision of the Town & Country Planning Act 1971 (Tamil Nadu
Act 35 of 1972, as amended by Act 61 of 2008).

Yours faithfully,

for MEMBER SECRETARY.

To

All the occupiers.