

Business Line

Chennai Metropolitan Development body powers to levy amenities charges upheld

Our Legal Correspondent

The judge referred to other writ petitions and held that all these batch of petitions would stand dismissed.

Chennai, June 11:

The Madras High Court has upheld constitutional validity of Sections 63B and 63C of TN Town & Country Planning Act, 1971 (TCP Act), as well as statutory rules (TN Town and Country Planning (Levy of Infrastructure and Amenities Charges) Rules, 2008, aimed at collection of infrastructure and amenities charges from builders, realtors and property developers.

Dismissing a batch of writ petitions from builders, etc challenging the vires of the Act on the ground that the amended sections were totally out of context with provisions of the law as power to levy development charges was already found under Section 59 and also relevant laws related to local bodies, Mr Justice K. Chandru held that the "Act is very much within the legislative competence of the State."

In his 80-page order, the Judge observed that the Supreme Court had upheld that the Chennai Metropolitan Development Authority (CMDA) could be asked following the amended Sec 63B and 63C to collect the infrastructure and amenities charges (IAA) separately [M. Chandru vs Member-Secretary, CMDA reported in (2009) 4 SCC 72]. Though in two writ petitions the challenge was to Sec 59 that question was no longer res integra and the legality of the said section was upheld by Division Bench of this Court in M. Chandru vs Member-Secretary, CMDA [reported in 2007 (1) CTC 353]. Subsequent to appeal to apex court, that view was upheld by the court.

The first ground of attack by petitioners was that the object of TCP Act was only to provide planning development and use of rural and urban land for purposes connected therewith. Any amendment must serve the object for which the Act was enacted.

Power to levy development charges was already found in Section 59. There was no further requirement to collect the IAA charges separately.

Since builders had already been paying charges towards development u/s 59, further collection under different nomenclature but essentially for very same purpose, would amount to double levy and not authorised by relevant legislative entry, petitioners also contended. In respect of charitable trusts running educational institutions, they should not be treated as commercial buildings as they were imparting education. As such, they should be exempted from levy.

On behalf of the Government, the Government Pleader said the preamble to Act and objects and reasons set out in amendment Act were clear guidelines for levy of IAA charges. The present levy was on account of infrastructure and amenities and creation of special fund.

The challenge to Govt notifications dated June 1, 2007 and July 2, 2007 did not stand to reason, the judge ruled. Even otherwise, by subsequent validating legislation, those provisions were still valid, an writ petitions in this regard must be rejected.

The judge referred to other writ petitions and held that all these batch of petitions would stand dismissed.

Keywords: [Madras High Court](#), [constitutional validity](#), [TN Town & Country Planning Act, 1971](#), [statutory rules](#), [TN Town and Country Planning \(Levy of Infrastructure and Amenities Charges\) Rules, 2008](#), [collection](#), [infrastructure and amenities charges](#), [builders](#), [realtors and property developers](#),

[Ads by Google](#)

[Find 1/2 BHK in Chennai](#)

Find Apartments / Flats For Sale From Top Builders in Chennai
[88DB.Com/Chennai/Properties](#)

[Home Loan offer from HSBC](#)

Home Loan offer that pays back 50%* interest of your 12, 24 & 36th EMI
[www.hsbc.com/homeloans](#)

[50Lac Life Cover@Rs.561/M](#)

Make: A Promise to Protect Your Family From Any Mishap
[www.PolicyBazaar.com/TermInsurance](#)