

Tamil Nadu Town And Country Planning (Amendment) Act, 2008

61 of 2008

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Statement of Objects & Reasons In the recent past, the Chennai Metropolitan Area witnessed tremendous growth in industrial and Service Sector leading to migration of people towards urban areas. In particular, the developments of the Industrial, Institutional and Information Technology Sector lead to enormous construction activities. In the process of finding housing needs, and infrastructure facilities, large developments have taken place in and around Chennai Metropolitan Area and in cities like Coimbatore, Madurai and Trichy. Incidentally, it has given room for unauthorized and deviated developments by various Sections of stakeholders causing innumerable problems to the society including risk due to fire, over crowding, traffic congestion, pollution, etc. The need for curbing this unauthorized and deviated development activity is the concern of the Planning Authorities. 2. As per the existing provisions of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972), the Planning Authority cannot take effective action against the unauthorized and deviated developments in the initial stage itself till the Appeal, if any, filed by the developer is disposed of by the Government. The Chairman, Tamil Nadu Town and Country Planning Act Review Committee, has recommended to delete the provision relating to the period within which notice can be issued for compliance of certain requirements, to make provision to take appropriate action to ensure the

discontinuance of the use, by locking and sealing the premises, for prosecution of the owner for not complying with the requirements specified in the notice, by amending Sections 56 and 57 of the said Act. The said Committee have also recommended for giving revisionary powers to Government and to bar the jurisdiction of Courts in granting interim injunction on the notices issued under Sections 56 and 57 of the said Act. 3. The Government have decided to amend the said Act suitably for the purpose. 4. The Bill seeks to give effect to the above decision. MEMORANDUM REGARDING DELEGATED LEGISLATION Clause 1(2), new sub-section (2-A) of Section 56 and new subsections (3) and (4) of Section 57 proposed to be inserted by clauses 2 and 3 of the Bill authorizes the Government to issue notification or to make Rules, as the case may be, for the purposes specified therein. 2. The powers delegated are normal and not of an exceptional character. FINANCIAL MEMORANDUM Clauses (b) and (c) of sub-section (3) of Section 3, sub-section (4) of Section 3 and sub-section (5) of Section 3 of the Bill provides for sealing, seizure and confiscating of the materials, tool, equipments, vehicles, etc., auctioning of them and prosecution of the owner of premises. These aspects may involve expenditure to be met out initially from the Consolidated Fund of the State and later may be recovered from the owner. 2. The legislation, therefore, involves expenditure initially from the Consolidated Fund of the State. It is not however, possible to estimate at this stage with any degree of accuracy the expenditure connected with the administration on the legislation. PREAMBLE An Act further to amend the Tamil Nadu Town and Country Planning Act, 1971. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-ninth Year of the Republic of India as follows:-- 1. Received the Assent of the Governor of Tamil Nadu on November 29, 2008 -- Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Iss. No.364, page 267-268, dated December 2, 2008.

1. Short Title And Commencement :-

- (1) This Act may be called the Tamil Nadu Town and Country Planning (Amendment) Act, 2008.
- (2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Amendment Of Section 56 :-

In Section 56 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) (hereinafter referred to as the principal Act),--

(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 subsection (2) " shall be inserted.

3. Amendment Of Section 57 :-

In Section 57 of the principal Act,--

(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 subsection (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".

4. Insertion Of New Section 80-A :-

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 subsection (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".

5. Amendment Of Section 101 :-

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.