

A THE M.D., CHENNAI METRO RAIL LTD.

v.

N. ISMAIL & ORS.

(Civil Appeal Nos. 2572-2573 of 2014)

FEBRUARY 21, 2014

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**[A.K. PATNAIK AND FAKKIR MOHAMED
IBRAHIM KALIFULLA, JJ.]**

GOVERNMENT GRANT:

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Grant of land with conditions - Resumption of land when it ceased to be used for the purpose for which it was granted - Land required for Metro Rail Project - Steps taken by State Government to resume the land - Held: State Government as the owner of the land and having regard to the right retained by it while making the grant in the years 1898 and 1899 and in the larger public interest of setting up of the Chennai Metro Rail Project the lands were required by it, the same cannot be questioned by the original grantee or by the lessees whose holding was subordinate in character to the original grantee - Since based on valid orders of High Court and AG & OT the first respondent developed its Hotel business in the lands in question, while resuming the lands, State Government along with Chennai Metro is bound to compensate the first respondent for the buildings which were erected in the said land based on the valuation to be made by the appropriate authorities - First respondent directed to surrender possession of the land.

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The Government of Tamil Nadu, by GO Ms. No.168 dated 21.05.2012 retrieved the land and the property in TS No.43/2 from Choultry through the Administrator General and Official Trustee ("the AG & OT) of Tamil Nadu, for the purpose of the "Chennai Metro Rail Project", a joint venture of the Central Government and the

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Government of Tamil Nadu. The land in TS No. 43/2 along with other land in TS No.41 had been granted by G.O. Ms. Nos.763 and 253 dated 09.12.1898 and 17.01.1899, respectively to build a Choultry with conditions, inter alia, that the Choultry should be available for the free use of railway travelers, and "that the land shall be liable to resumption, without compensation, if it ceases to be employed for the purpose for which it is granted or is used for any other purposes, without the permission of the Government". Subsequently, all the properties held by the Choultry were vested with the AG & OT of Tamil Nadu, and the latter leased out the lands in T.S. No.41 and T.S. No.43/2 to various tenants including the first respondent, who constructed a Hotel thereon in the year 1987. Subsequently, rights on an adjacent piece of land which had been granted on lease for a period of 30 years to another lessee were also stated to have been transferred by the said lessee to the first respondent, who claimed to have put up two pucca structures and running two Star Hotels thereon. Pursuant to the issuance of the GO Ms. No.168 dated 21.05.2012, the Tehsildar issued a notice to AG & OT on 21.06.2012 for resumption of the land and handover vacant possession. Writ petitions were filed before the High Court challenging the said GO dated 21.06.2012. The single Judge of the High Court allowed the writ petitions and set aside the GO. However, the Division Bench of the High Court allowed the appeals of the appellant except those relating to properties in possession of the first respondent, which the Division Bench held stood on a different footing inasmuch as TS No. 43/2 was not part of the project land and that the first respondent had been granted a lease by the AG & OT till the year 2027, and, therefore, the impugned GO in that respect could not be sustained.

Allowing the appeals, the Court

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A HELD: 1.1 The reasoning of the Division Bench of the High Court that the underground Metro Station has been planned in a stretch of land on a site where certain other lands were available and, therefore, there was no necessity for taking over the lands in possession of the first respondent is patently a conclusion which was contrary to the records placed before the Division Bench and the same cannot be sustained. The conclusion of the Division Bench that the land in question namely, the one situated in TS No.43/2 was not part of the project of the Chennai Metro was a wrong assimilation of facts. The conclusion of the Division Bench having been reached without properly examining the relevant documents relating to the Chennai Metro Project, namely, the plans, the project schedule and the other averments placed before the Division Bench, the impugned order of the Division Bench cannot be sustained. [para 18] [78-G-H; 79-A-B, H; 80-A]

E 1.2 Indisputably the lands in Survey No.43/2 belong to the State. At the time when the lands were granted and assigned by GO Ms. Nos.763 and 253 dated 09.12.1898 and 17.01.1899 respectively, conditions were imposed to the effect that the lands would revert back to the Government when it ceased to be used for the purpose for which it was granted and that should the property at any time resumed by Government, the compensation payable should in no case exceed the cost or the then present value whichever shall be less of any building erected or other works executed in the land. [para 20] [81-E-G]

G 1.3 In so far as the first respondent was concerned, his lease came into existence initially on 22.12.1972, and by Order dated 10.12.2004 in Application No.915 of 2003, the lease in favour of the first respondent was extended for a further period of 25 years by enhancing the rent. The said order was also confirmed by the Division Bench in

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the Order dated 20.08.2009 in O.S.A. No.298 of 2004. In the A
circumstances, it cannot be held that the said
possession with the first respondent was unlawful.
However, on that basis when it comes to the question of
resumption of the land by the State Government when
the Government through the AG & OT thought it fit to B
resume the lands which was in accordance with the
terms contained in the Original Grant, namely, GOS
No.763 and 253 dated 09.12.1898 and 17.01.1899,
respectively there would be no scope for the first
respondent to contend that the appellants are not entitled C
for the resumption of the lands situated in Survey No.43/
2. [para 21] [82-C-F]

1.4 This Court, therefore, holds that the State
Government as the owner of the land and having regard
to the right retained by it while making the grant in the D
years 1898 and 1899 and in the larger public interest of
setting up of the Chennai Metro Project the lands were
required by it, the same cannot be questioned by the
original grantee or by the lessees whose holding was
subordinate in character to the original grantee. E
Therefore, there is no justification in the Division Bench
in having interfered with the impugned GO Ms. No.168
dated 21.05.2012 and the consequential orders of the
Tehsildar dated 21.06.2012 and that of the AG & OT dated
25.06.2012 directing the first respondent to handover F
possession of the lands. [para 22] [82-G-H; 83-A]

1.5 Having regard to the condition contained in the
initial GO Ms. Nos.763 and 253 dated 09.12.1898 and
17.01.1899 since based on valid orders of the High Court
and the AG & OT the first respondent developed its Hotel G
business in the lands in question, while resuming the
lands, the State Government along with the Chennai
Metro is bound to compensate the first respondent for the
buildings which were erected in the said land in Survey
No.43/2 based on the valuation to be made by the H

A appropriate authorities. The appellants are directed to value the buildings belonging to the first respondent standing in TS No.43/2 and determine the compensation and pay the same to the first respondent. The first respondent is directed to surrender possession of the lands in TS No.43/2 in an extent of 5644 sq. ft. through the AG & OT within four weeks from the date of receipt of copy of this judgment. [para 23-25] [83-B-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2572-2573 of 2014.

C From the Judgment and Order dated 12.07.2013 of the High Court of Madras in WA Nos. 89 and 90 of 2013.

WITH

D Civil Appeal Nos. 2575-2578 of 2014.

E L. Nageswara Rao, ASG, R. Thiagarajan, Gopal Subramaniam, Pinaki Mishra, Subramoniam Prasad, AAG, V. Ramajagadeesan, Govind Manoharan, Shruti Iyer, Senthil Jagadeesan, B. Balaji, Rakesh Sharma, Selvin, K. Enatoli Sema, Amit Kumar Singh, R. Rakesh Sharma, Selvin Raja, Sunil Fernandes, Raghav Chadha, Astha Sharma, Sri Ram J. Thalpathy, V. Adhimoolam, Shilpi Vinod, N. Shoba for the appearing parties.

F The Judgment of the Court was delivered by

G **FAKKIR MOHAMED IBRAHIM KALIFULLA**, J. 1. I.A. Nos.1-2 & I.A. Nos.1-4, applications for impleadment, filed in Special Leave Petition (C) Nos.26020-26021 of 2013 and Special Leave Petition (C) Nos.26199-26202 of 2013, are allowed. Registry to carry out necessary amendment.

2. Leave granted.

H 3. These appeals have been filed by the State of Tamil Nadu represented by the Managing Director of Chennai Metro Rail Ltd. and the Principal Secretary to Government Revenue

LD-1(1) Department. The issue concerned in these appeals A
relates to an extent of 5 Grounds and 275 sq.ft. of land in T.S.
No.43/2 in Chennai District, Fort Tondiarpet Taluk, Block No.7
of Veperiy Village. The abovesaid land along with another land
in an extent of one Cawni 10 Grounds and 1871 sq.ft. in T.S.
No.41 of the same Veperiy Village, Fort Tondiarpet Taluk, B
Chennai District was granted by the Government of Tamil Nadu
to one Sir Ramaswamy Mudaliar to build a Choultry for the use
of persons who come by rail from different parts of the
presidency and who have no homes or friends in Madras. The
Government while assigning the above lands to Sir C
Ramaswamy Mudaliar imposed certain conditions to the effect
that the Choultry should be available for the free use of railway
travelers, that the buildings constructed should be approved by
the Government and more importantly, "that the land shall be
liable to resumption, without compensation, if it ceases to be D
employed for the purpose for which it is granted or is used for
any other purposes, without the permission of the Government".

4. The said lands were granted and assigned in favour of
Sir Ramaswamy Mudaliar by GO Ms. Nos.763 and 253 dated E
09.12.1898 and 17.01.1899 respectively whereas the
conditions were incorporated in the following words "(1) that the
land shall revert to Government when it ceases to be used for
the purpose for which it is granted and (2) that should the
property be at any time resumed by Government, the
compensation payable, therefore, shall in no case exceed the F
cost or the then present value whichever shall be less of any
building erected or other works executed on the land".

5. Subsequently, under a Scheme Decree framed by the
High Court of Judicature at Madras in C.S. No.90 of 1963 all G
the above mentioned properties held by Sir Ramaswami
Mudaliar's Choultry were vested with the Administrator General
and Official Trustee (hereinafter referred to as "the AG & OT")
of Tamil Nadu on 18.08.1970. From then onwards the
management of the Trust and the properties attached with it H

- A were under the control of the AG & OT. As per the Scheme Decree, the AG & OT of Tamil Nadu leased out the lands in T.S. No.41 and T.S. No.43/2 to various tenants and was collecting the rent. As far as T.S. No.43/2 comprised in an extent of 5644 sq.ft. was concerned, the same was leased out to the
- B first respondent herein under the lease deed dated 22.12.1972. According to the AG & OT, the First Respondent is in arrears and as on 31.12.2012, the arrears payable by the First Respondent works out to a sum of Rs.94,84,630/- which has been computed and determined by the High Court of Madras.
- C It is also stated that the First Respondent has preferred Special Leave Petition(C) No.11-12 of 2010 against the said determination and claim which is pending in this Hon'ble Court.

6. According to the First Respondent, pursuant to the lease granted in his favour, which was registered as document 105
- D of 1974 in the Office of Sub-Registrar, West Madras, he constructed a Hotel and started the business in the year 1987. According to him, subsequently, an adjacent piece of land measuring 4141 sq. ft was granted on lease for a period of 30 years to one Smt. Vatsala again based on the Order of the
- E High Court of Madras, which was also supported by a registered Lease Deed dated 29.04.1982 bearing Document No.1492/1984 registered in the office of the Registrar, Madras (North). The said Smt. Vatsala also stated to have transferred her lease hold right in respect of the said extent to the First
- F Respondent which was also stated to have been approved by the Official Trustee in the proceeding dated 05.04.1989 in R.O.C. No.2390 of 1989/OT. The First Respondent claimed to have put up two pucca structures and running two Star Hotels known as 'Hotel Central Tower' and 'Hotel Howrah'. The First
- G Respondent also claimed to have got the approval of the Municipality, State Government and other authorities and that the buildings were duly assessed for property tax and other statutory dues. By Order dated 10 12.2004 in Application No.915/2003, the lease in favour of the First Respondent was
- H stated to have been extended for a further period of 25 years

by enhancing the rent payable by him. The First Respondent also relied upon an Order of the Division Bench of the High Court dated 20.08.2009 in support of the extension of the lease passed in O.S.A. No.298 of 2004 and connected batch cases. According to the First Respondent because of his old age and other physical ailments he entered into a partnership arrangement with the applicant in I.A. Nos.1 and 2 of 2014 in Special Leave Petition (C) No.26020-21 of 2013 under the partnership deed dated 28.03.2013.

7. Be that as it may, having regard to the unprecedented growth of population in general, as well as with particular reference to the Metropolitan City of Chennai, there was an imminent need for providing better transport facilities for the commuters and office goers, as well as business people, which persuaded the State to expand the rail transport facility in the City of Chennai. With that avowed object, the appellant in Special Leave Petition (C) No.26020-21 of 2013 came into being and the said Chennai Metro Rail Limited planned a project called 'Chennai Metro Rail Project' which envisaged construction of two corridors under Phase-1. Corridor 1 starts from Washermenpet and ends at Airport for a length of 23.1 kms. and Corridor 2 starts from Chennai Central and ends at St. Thomas Mount Station for a length of 22 kms. As per the project, the portions of Corridor 1 with a length of 14.3 kms. between Washermenpet to Saidapet and in Corridor - 2 with a length of 9.7 kms. from Chennai Central to Anna Nagar would be underground corridors and the remaining in an elevated position.

8. The Chennai Metro Rail Limited is stated to be a Special Purpose Vehicle (SPV) formed for the purpose of implementing the 'Chennai Metro Rail Project'. The Project is stated to be funded by the Government of India and the State Government by way of equal equity contribution in subordinate debt. (Government of India 20%, Government of Tamil Nadu 20.78% and the balance 59.22% being met from the loan

A assistance from Japan International Co-operation agency). The Government of India is stated to have accorded sanction for the project as well as for its participation.

B 9. The lands concerned in these appeals are covered by the project, namely, Corridor 1, i.e. from Washermenpet to Chennai Airport. According to the appellant, in Special Leave
C Petition (C) No.26020-21 of 2013, the project is a time bound project with an objective to ease out phenomenal growth of traffic congestion in the City of Chennai and any delay in
D carrying out the project would affect the plans announced by the Government of India, as well as, the State Government, the convenience of the public of Chennai and further will lead to contractual implications such as extension of time and escalation of project costs, which in turn would cost the public
E exchequer several hundred crores of rupees. According to the Chennai Metro, any further delay on any account, apart from causing high amount of cost escalation, would also deprive the citizens of Chennai a safe and quick means of public transport. It is stated that the Chennai Metro in its project report has described in detail the various length of the projects and in the
F said statement, designed constructions of underground stations at Washermenpet, Mannadi, High Court, Chennai Central and Egmore and associated tunnels, the details of the location, the description, the access date from commencement of the works with particular reference to the number of days and the vacate date from commencement of the work with particular reference of number of days is specified after making meticulous calculations.

G 10. Mr. Nageswara Rao, learned Additional Solicitor General appearing for the appellants brought to our notice the work which was to be carried out in the land concerned in this appeal which has been noted in the column under locations/
H drawing reference bearing No.SCC-14 and the description has been shown as entrance area. As far as access date is concerned, it is noted as 365 days from commencement of the

works and the date to be vacated after completion of the work from the date of commencement is noted as 1520 days. According to learned Additional Solicitor General, for the purpose of starting the work in the land in question, as per the schedule, the Chennai Metro should have access to the land within 365 days of the commencement of the project and complete the work in that land within 1520 days from the date of such access. It was pointed out that such details have been specified in the contract agreement and that to ensure that the works are carried out without any deviation and within the time schedule, the required plans were also prepared in so far as it related to SCC-14 and was submitted with the details of lands falling under Survey No.43/2. The learned Additional Solicitor General also submitted that the said land were earmarked for erecting a mechanical plant room, electrical plant room, building services, drop-off and pick-up facilities and Airport check-in facilities. The plan which were enclosed along with the Special Leave Petition paper book between pages 164 to 167 disclose the area falling under Survey No.43/2, the various facilities to be set up in that land along with the other facilities to be provided in the lands adjacent to the said Survey No.43/2.

11. It was also the case of the Chennai Metro that since the lands in Survey No.43/2 belong to the State Government and was imminently required for the Chennai Metro Project which was out and out in public interest, the State Government came forward to allot the said lands after retrieving it from Sir Ramaswamy Mudaliar Choultry through the AG & OT and by GO Ms. No.168 dated 21.05.2012 passed orders to that effect. Before issuing the said GO, the procedure to be followed for transfer of the said lands in favour of the Chennai Metro Pvt. Limited were also carried out. As the lands belong to the State Government there was no necessity for any acquisition being involved or any payment of compensation to be made in favour of anyone except for the Buildings standing thereon. Since the State Government's participation is equal in proportion along with the Government of India and inasmuch as the development

A of the project was in the interest of the public at large the GO dated 21.05.2012 came to be issued.

B 12. Aggrieved by the Order of the Government in GO Ms. No.168 of 21.05.2012, the First Respondent and various other persons who were in possession of the other adjacent lands, which were also covered by the abovesaid GO, approached the High Court by filing Writ Petitions. The First Respondent's Writ Petitions were Writ Petition Nos.19469/2012 and 19470/2012 wherein he sought for issuance of a writ of Certiorari to call for the records of the proceedings in GO No.168 of 21.05.2012 and the consequential proceedings of the Tehsildar dated 21.06.2012 as well as the proceedings of the AG & OT dated 25.06.2012 and for quashing the said proceedings. It is stated that pursuant to the issuance of the GO Ms. No.168 dated 21.05.2012, the Tehsildar of Fort Tondiarpet Taluk issued a notice to AG & OT on 21.06.2012 for resumption of the land and handover vacant possession. Individual notices were also stated to have been issued to all the occupants including the First Respondent asking them to vacate the premises and remove their belonging and handover vacant possession. In turn, the AG & OT by its notice 25.06.2012 called upon the First Respondent and the other tenants to vacate the premises immediately to enable the AG & OT to handover possession to Chennai Metro.

F 13. By Order dated 26.11.2012, the Writ Petitions filed by the First Respondent and other occupants came to be allowed by the learned Single Judge and the GO Ms. No.168 dated 21.05.2012 was set aside. Aggrieved by the Judgment of the learned Single Judge the appellants herein preferred Writ Appeals 68 to 106 of 2013. The Division Bench after a detailed discussion allowed Writ Appeal Nos. 70 to 88 and 91 to 106 of 2013 holding that the said Chennai Metro Rail Project, a joint venture of Central Government was to enhance the public transport system in Chennai and being a public project, any delay in implementation would oust the public purpose for which

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the lands were sought to be retrieved. However, Writ Appeal Nos.68, 69, 89 and 90 of 2013 which related to the lands falling under Survey No.43/2 which are in the possession of the First Respondent were concerned, according to the Division Bench the same stood on a different footing. The Division Bench in its order held as under in paragraph 28:

"28. The map published by CMRL, showing various structures they are going to erect in the area, indicate that the area earmarked for CMRL project does not include the ease area of the writ petitioner in W.P. Nos.19469 and 19470 of 2012 (connected to W.A. Nos. 68, 69, 89 and 90 of 2013). It is also clear from the map that the entire lands required for the CMRL projects like the Underground Metro Station etc. are on the Northern side of the Poonamalle High Road, where vast extent of other vacant lands are available, including the erstwhile Hotel Picnic area. As already stated supra, pursuant to the lease deed entered into by this petitioner with AG & OT, this petitioner raised a huge construction with his own funds and doing his own business and the said lease has been extended upto the year 2027. No default of any sort on his part has been alleged by any of the parties. When the lands and building in possession and occupation of this petitioner are outside the purview of the CMRL project, as has been discussed supra, ordering handing over of the vacant possession of the said lands by this petitioner for the purpose of CMRL, is nothing but requiring him to demolish the building in his possession. At this juncture we feel it apt to hold that ordering demolition of buildings, for no legal or useful purposes, is nothing but wastage of public resources. Given the facts and circumstances of the case that the lands and building raised by this petitioner are outside the purview of the CMRL and not in violation of any law, including the building and tenancy laws, we have no doubt to hold that the lands and building in possession and enjoyment of this petitioner are entitled to be excluded

A from the project area. Thereafter, the order passed by the learned single Judge in W.P. Nos. 19469 of 2012 and 19470 of 2012 stands modified and both the above writ petitions stand allowed. Consequently, W.A. Nos. 68, 69, 89 and 90 stand dismissed."

B 14. A reading of the said paragraph disclose that in its
C opinion the lands required for Central Chennai Metro Rail
D Project for locating its underground Metro Station etc. were all
noted on the northern side of the arterial road namely
Poonamallee High Road, that vast extent of other vacant lands
were available including the erstwhile hotel called 'the Hotel
Picnic' and that in so far as the first Respondent was
concerned, he was granted a lease which is to be in operation
till the year 2027 and on these two grounds the Division Bench
took the view that the GO Ms.168 dated 21.05.2012 cannot be
justified and confirmed the order of the learned Single Judge
in WP 19469 of 2012 and 19470 of 2012 and dismissed the
Writ Appeal Nos.68, 69, 89 and 90 of 2013.

E 15. Mr. Nageswara Rao, learned Additional Solicitor
General in his submission while assailing the Judgment of the
Division Bench contended that the basis for setting aside the
impugned GO Ms. No.168 dated 21.05.2012 by the Division
Bench was that the land in question, namely, the one which fell
within Survey No.43/2 was not part of the project land and that
F the First Respondent has been granted a lease by the AG &
OT till the year 2027 and, therefore, the impugned GO cannot
be sustained. The learned Additional Solicitor General by
referring to the above paragraph 28 of the Division Bench
submitted that the Division Bench thoroughly misled itself when
G it stated that the underground Metro Station has been planned
in the project on the Northern side of the Poonamallee High
Road where certain other lands are available which can be
acquired and inasmuch as the First Respondent has got a long
lease in his favour from the AG & OT, the Chennai Metro as
H well as the State Government was not justified in passing the

impugned GO dated 21.05.2012. In so far as the lands in Survey No.43/2, the learned Additional Solicitor General took us to the plans which were part of the material papers placed before the High Court which are now annexed and found in pages 164-167 and submitted that while on the Northern side of the Poonamallee High Road the underground Metro Station has been planned, the present lands situated in Survey No.43/2 as well as the adjacent lands in Survey No.41 have been earmarked for various other important developments to be carried out as part of the project such as the setting up of mechanical plant rooms, electrical plant rooms, building services, drop-off and pick-up facilities and the Airport check-in facilities in Survey No.43/2 and ventilation shaft, entry/exit, sub way, feeder bus stand, multi-modal facilities, pick-up and drop-off bay, MTC Bus bay and fireman staircase in Survey No.41 and that the entire lands in Survey No.41 and 43/2 belong to the State Government and, therefore, the Division Bench unfortunately failed to advert to the above details which were placed before it which resulted in the passing of the impugned judgment.

16. Learned Additional Solicitor General also submitted that as against the Division Bench Judgment relating to the other Writ Appeals which were allowed in favour of the Chennai Metro and State Government, Civil Appeal Nos.6065-6068 of 2013 and connected Special Leave Petitions were filed wherein this Court taking note of the submission of learned Solicitor General that the State of Tamil Nadu would issue notices inviting all the stake-holders liable to be affected by adverse orders an opportunity to respond to the reasons which weighed with the State Government to evict them from the premises in question permitted the State Government to issue such notices and after getting the response from those parties pass appropriate orders. Learned Additional Solicitor General also submitted that the said exercise was carried out by issuing notices and after receipt of the response, orders were passed for taking over of the lands from the concerned occupants and

A that fresh proceedings have been initiated by those occupants
which are stated to be pending consideration before the High
Court.

B 17. Mr. Gopal Subramaniam, learned Senior Counsel
appearing for the First Respondent also confirmed the said
statement of learned Additional Solicitor General. Mr. Gopal
Subramaniam, however, contended that similar orders can be
passed in these appeals also to enable the First Respondent
to submit his response and, thereafter, the Appellants can pass
C appropriate orders. The learned Senior Counsel for the First
Respondent in his submission contended that in the sketch
which are enclosed and kept at page 164 to 167 of the Special
Leave Petition papers adjacent to the Survey No. 43/2, there
were some other structures belonging to different parties and
D that the Appellants have excluded those lands on the footing
that some heritage building was located and, therefore, the First
Respondent, whose leasehold lands are located closely
adjacent to those left out built-up area, in the event of an
opportunity being extended to the First Respondent, he will be
able to satisfy the authorities to exclude his leasehold lands
E also from the purview of taking over by the Chennai Metro. Mr.
Gopal Subramaniam also referred to an affidavit on behalf of
Chennai Metro dated April, 2011 in O.S.A. No.100-101 of 2011
to contend that the averments contained therein support the
stand of the First Respondent to persuade the Chennai Metro
F to look for some other alternate lands.

G 18. While considering the submissions of learned
Additional Solicitor General and Mr. Gopal Subramaniam,
learned Senior Counsel for the First Respondent, inasmuch as
we find that the reasoning of the Division Bench in having stated
that the underground Metro Station has been planned in a
stretch of Land on the Northern side of the Arterial Road,
namely, Poonamallee High Road and that certain other lands
were available in that side and, therefore, there was no
H necessity for taking over the lands in the possession of the First

Respondent is patently a conclusion which was contrary to the records placed before the Division Bench and the same cannot be sustained. In other words, as rightly pointed out by learned Additional Solicitor General, the conclusion of the Division Bench that the lands concerned in these Appeals, namely, the one situated in Survey No.43/2 were not part of the project of the Chennai Metro was a wrong assimilation of facts. When it has been demonstrated before us based on the project details and the plan annexed with it, which disclose that the lands situated in Survey No.43/2 as well as Survey No.41 were all part of the projects for putting up various other ancillary units such as mechanical plant rooms, electrical plant rooms, building services, drop-off and pick-up facilities, airport check-in facilities, ventilation shafts, subway, feeder bus stand, multi-modal facilities, pick-up and drop-off bay, MTC Bus bay, fireman staircase, entry and exit points, if the taking over of the lands by the Chennai Metro is not allowed, the same would seriously prejudice and cause unnecessary hurdles in proceeding with the project. In our considered view, the failure of the Division Bench in noting the details displayed in the plan and the project which were placed before it has resulted in the passing of the impugned Order. The Division Bench failed to note that the project details pertaining to the proposed underground Metro Station and the other supporting provisions to be made such as mechanical plant rooms, electrical plant rooms, bus bay and other developments to be carried out spread over a vast extent of land both on the Northern side of the Poonamallee High Road as well as the lands situated on the Southern side of the said Road with which we are now concerned. Therefore, in the light of the above details placed before the Court which according to learned Additional Solicitor General was made available before the Division Bench also, we have no reason to reject the said submission in order to sustain the conclusion of the Division Bench. In other words, the conclusion of the Division Bench having been reached without properly examining the relevant documents relating to the Chennai Metro Project, namely, the plans, the project

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A schedule and the other averments placed before the Division Bench, the impugned order of the Division Bench cannot be sustained.

B 19. Mr. Gopal Subramaniam, learned Senior Counsel
appearing for the First Respondent in support of his submission
that the lands situated in Survey No.43/2 were not required at
all for the purpose of carrying out the Metro Project and referred
to an affidavit filed before the Division Bench by the Managing
Director of Chennai Metro Rail Limited. The learned Senior
Counsel submitted that in the said affidavit the reference to the
C Metro Rail Station planned along the Poonamallee High Road
has been stated and while referring to the same, a specific
reference was made to the private buildings located opposite
to Picnic Hotel and that acquisition of those private lands would
cost dearly to the State Exchequer apart from evacuation of the
D tenants/owners would consume considerable length of time
which would in turn cause delay in the construction of the
underground Station. When we perused the said affidavit which
has been extracted in the reply affidavit filed by the Managing
Director of Chennai Metro in W.P. No.19469 of 2012, we find
E that statement came to be made when a litigation was launched
at the instance of Hotel Picnic and while meeting the stand of
Hotel Picnic, it was stated that the above statement came to
be made. We do not find any scope to reject the stand of the
Appellant with reference to the lands situated in Survey No.43/
F 2 which had nothing to do with the construction of the
underground Metro Station. Though, the various other units to
be set up in the lands in Survey No.43/2 were also part of the
Metro Project as has been demonstrated before us based on
relevant documents, the reference to the Heritage Buildings and
G other private buildings situated opposite to Hotel Picnic was
referred to by Chennai Metro while pointing out its inability to
plan the setting up of underground Metro Station in any other
land except the lands where Hotel Picnic was situated.
Therefore, the said submission of the learned Senior Counsel
H for the First Respondent does not in any way support the stand

of the First Respondent. As far as the contention of Mr. Gopal Subramaniam that like in the case of other occupants wherein a direction was issued by this Court to give a show cause notice and decide the matter, the said contention cannot be countenanced in this case inasmuch as before the Division Bench of the High Court as well as before us the issue was argued on merits. In fact, the Division Bench after hearing the Appellants and the First Respondent allowed both his Writ Petitions by modifying the order of the learned Single Judge and thereby held that there was no necessity for a remand. Therefore, since we have also decided the whole controversy on merits there is no need for a remand.

20. Therefore, once we are convinced that the entitlement of the Appellant to hold the lands belonging to the State falling under Survey Nos.43/2 as well as 41 which the Appellant is able to take possession of from the State Government without payment of any compensation, the only other question to be examined is as to whether the lease granted in favour of the First Respondent by the AG & OT based on the directions of the High Court can have any implication in preventing the Appellant from taking over the lands. As noted earlier, indisputably the lands in Survey No.43/2 belong to the State. At the time when the lands were granted and assigned in favour of Sir Ramaswamy Mudaliar Trust vide GO Ms. Nos.763 and 253 dated 09.12.1898 and 17.01.1899 respectively, conditions were imposed to the effect that the lands would revert back to the Government when it ceases to be used for the purpose for which it was granted and that should the property at any time resumed by Government, the compensation payable should in no case exceed the cost or the then present value whichever shall be less of any building erected or other works executed in the land. Though, learned Additional Solicitor General sought to contend as was also contended before the High Court that by leasing out the lands to different parties the condition No.1 was violated, namely, that the land was put to different use than for what it was granted, we do not find any good grounds to

A accept the same. On the other hand, we find that the Trust itself was vested with the AG & OT on 18.08.1970 pursuant to a Scheme Decree framed by the High Court in C.S. No.90 of 1963. From then onwards, the AG & OT was administering the Trust and was apparently fulfilling the purpose for which the Trust came to be created, though, by leasing out the lands to different individuals for the purpose of generating income from the lands. The AG & OT by approaching the High Court, as and when required, seem to have granted the lease of the lands to different parties based on the orders passed by the High Court.

C 21. In so far as the First Respondent was concerned, his lease came into existence initially on 22.12.1972, and by Order dated 10.12.2004 in Application No.915 of 2003, the lease in favour of the First Respondent was extended for a further period of 25 years by enhancing the rent. The said order was also confirmed by the Division Bench in the Order dated 20.08.2009 in O.S.A. No.298 of 2004. In the said circumstances, it cannot be held that the said possession with the First Respondent was unlawful. However, on that basis when it comes to the question of resumption of the land by the State Government when the Government through the AG & OT thought it fit to resume the lands which was in accordance with the terms contained in the Original Grant, namely, GOS No.763 and 253 dated 09.12.1898 and 17.01.1899, there would be no scope for the First Respondent to contend that the Appellants are not entitled for the resumption of the lands situated in Survey No.43/2.

G 22. We, therefore, hold that the State Government as the owner of the land and having regard to the right retained by it while making the grant in the years 1898 and 1899 and in the larger public interest of setting up of the Chennai Metro Project the lands were required by it, the same cannot be questioned by the Original Grantee or by the lessees whose holding was subordinate in character to the Original Grantee. Therefore, we do not find any justification in the Division Bench in having

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interfered with the impugned GO Ms. No.168 dated 21.05.2012 A
and the consequential orders of the Tehsildar dated 21.06.2012
and that of the AG & OT dated 25.06.2012 directing the First
Respondent to handover possession of the lands.

23. Therefore, while the impugned GO and the B
consequential orders of the Tehsildar and AG & OT can be
sustained, having regard to the condition contained in the initial
GO Ms. Nos.763 and 253 dated 09.12.1898 and 17.01.1899
since based on valid orders of the High Court and the AG & C
OT the First Respondent developed its Hotel business in the
lands in question, while resuming the lands, the State
Government along with the Chennai Metro is bound to
compensate the First Respondent for the buildings which were
erected in the said land in Survey No.43/2 based on the
valuation to be made by the appropriate Authorities.

24. Therefore, while allowing the Appeals of the State D
Government as well as the Chennai Metro and while setting
aside the Judgment of the Division Bench, Writ Appeal Nos.68,
69, 89 and 90 of 2013 are allowed. We, however, direct the
Appellants to value the buildings belonging to the First E
Respondent standing in Survey No.43/2 and determine the
compensation and pay the same to the First Respondent. The
said exercise of valuation and payment of compensation shall
be effected within three months from this date.

25. In the light of our above orders, the First Respondent F
is directed to surrender possession of the lands in Survey
No.43/2 in an extent of 5644 sq. ft. through the AG & OT within
four weeks from the date of receipt of copy of this judgment.
With the above directions, these appeals are allowed.

R.P.

Appeals allowed. G