

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/9/2019

C O R A M:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR  
and  
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.10415 of 2019 and 34578 of 2018  
and  
W.M.P.Nos.10942, 10944, 3563, 3574, and 3576 of 2019  
and 40103, 40107 and 40109 of 2018

Writ Petition No.34578 of 2018

1. Sivakumar
2. Satish Menon
3. Sridevi menon
4. Geetha Nambiar
5. Latha Gopati
6. Preetam Chandavarkar
7. B.S.Doraisamy
8. Vaidehi Bhasyam
9. Syama Menon
10. G. Durairaj
11. P. Natarajan
12. S.Shriram
13. U. Ilayaraja
14. R. Narendra Kumar
15. K. Perumal
16. Vinodhkumar Munoth
17. R. Srinivasan
18. S. Rathinam
19. W. Kabeer Ahmed
20. M. Viswanathan
21. K. Mohan
22. Jyoti Pandalai
23. Sireesha Reddy
24. Dr.Jaya Rubi
25. Sushma Kariat
26. Veinu Gnanolivu
27. Rangashree
28. B. Rajeswari
29. Gayathri
30. Uthra Gopalan
31. Kavitha Seetharaman

32. T.K.Srinivasachari
33. Vijaya Ramesh
34. S.K.Balaji
35. M. Dandapani
36. V.S.Kandasamy
37. V. Jayachandran
38. K. Suresh
39. L.P.Narasimhulu
40. R.Raghavan
41. Chandrashekhara Tawker T.R.
42. B. Thyagaraj
43. K.P.Sivasubramanian
44. M.Thanigachalam
45. S.S.Arunasalam ... Petitioners

Vs

1. Chennai Metro Rail Limited  
Admin Building  
CMRL Depot  
Poonamallee High Road  
Koyambedu  
Chennai 600 107.
2. The Member/Secretary  
Chennai Metropolitan Development Authority  
Egmore  
Chennai.
3. The Commissioner  
Greater Chennai Corporation  
Rippon Building  
Chennai 600 003.
4. The Additional Commissioner of Police - Traffic  
Greater Chennai Police  
Kilpauk  
Chennai.
5. B.L.Kashyap & Sons Ltd  
4th Floor, West Wing, Soul Space Paradigm  
Outer Ring Road  
Marathalli  
Bengaluru 560 037.

6. The Superintending Engineer  
Parks Department  
Greater Chennai Corporation  
Ripon Building  
Chennai 600 003. ... Respondents

a n d

W.P.No.10415 of 2019

C. Ravindran ... Petitioner

Vs.

1. The Union of India  
rep. by its Secretary  
Ministry of Environment  
Forest and Climate Change  
Prithvi Block, First Floor  
Indira Paryavaran Bhawan  
Jor Bagh Road, Aliganj  
New Delhi 110 003.
2. The State of Tamil Nadu  
rep. by its Additional Chief Secretary to  
Government  
Planning, Development and  
Special Initiatives (S.I.) Department  
Secretariat, Fort St. George  
Chennai 600 009.
3. Government of Tamil Nadu  
rep. by its Principal Secretary to Government  
Housing and Urban Development Department  
Secretariat, Fort St. George  
Chennai 600 009.
4. The Principal Chief Conservator of Forests  
Tamil Nadu Forest Department  
Panagal Maaligai, Saidapet  
Chennai 600 015.
5. Chennai Metropolitan Development Authority  
rep. by its Member Secretary  
Thalamuthu Natarajan Maaligai

No.1 Gandhi Irwin Road  
Egmore  
Chennai 600 008.

6. The Commissioner  
Greater Chennai Corporation  
Ripon Building  
Chennai 600 003.
  7. The Superintending Engineer  
Parks Department  
Greater Chennai Corporation  
Ripon Building  
Chennai 600 003.
  8. Chennai Metro Rail Limited  
rep. By its Managing Director  
Admin Building, CMRL Depot  
Poonamallee High Road  
Koyambedu  
Chennai 600 107.
  9. The Member Secretary  
Tamil Nadu Pollution Control Board  
76 Mount Road, Guindy  
Chennai 600 032.
  10. M/s. B.L.Kashyap & Sons Ltd  
rep. By its Chairman  
4<sup>th</sup> Floor, West Wing  
Soul Space Paradigm  
Outer Ring Road  
Marathalli  
Bengaluru 560 037.
- ..... Respondents

Prayer in W.P.No.34578 of 2018: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, forbearing the respondents, their agents or any persons acting under them, from encroaching upon or proceeding with construction work at Thiru.Vi.Ka.Park, Shenoy Nagar, Chennai, towards development of amenities center/mall and a consequential direction to the respondents to take necessary steps to restore Thiru.vi.ka.Park, as it existed prior to the handing over of possession to the first respondent.

Prayer in W.P.No.10415 of 2019: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records of the third respondent in G.O.(MS). No.70, dated 31/5/2018, quash the same and consequently, direct the appropriate official respondents to restore Thiru.Vi.Ka.Park, Shenoy Nagar, Chennai, as it existed prior to handing over possession to the eighth respondent.

For petitioners  
(in W.P.No.34578 of 2018)... Mr.Satish Parasaran  
Senior Counsel  
for Mr.R.Parthasarathy

(in W.P.No.10415 of 2019)... Mr.T.Mohan  
for M/s. Nivedita S.Menon

For respondents ... Mr.A.Thiagarajan  
(in W.P.No.34578 of 2018) Senior Counsel  
for M/s.Jayesh B.Dolia  
for R.1.

Mr.Vijay Narayan  
Advocate General  
assisted by Mr.V.Shanmuga Sundaram  
Special Government Pleader  
for R.4.

Mr.P.S.Ganesh  
for CMDA/R.2

Mr.V.C.Selvasekaran  
for R.3.

Mr.T.K.Bhaskar  
for R.5.

(in W.P.No.10415 of 2019) ... Mr.N.Ramesh  
Senior Panel Counsel  
for R.1.

Mr.Akhil Akbar Ali  
Government Advocate  
for R.R.2 and 3.

Mr.S.V.Vijay Prashanth  
Additional Government Pleader  
(Forests) for R.4.

Mr.P.S.Ganesh  
for CMDA/R.5

Mr.Vijay Narayan  
Advocate General  
assisted by M/s. Jayesh B.Dolia  
for R.8

Mr.T.K.Bhaskaran  
for R.10.

C O M M O N   O R D E R

(Order of the Court was delivered by SUBRAMONIUM PRASAD,  
J)

Challenge in writ petition No.34578 of 2018, is for a writ of mandamus, forbearing Chennai Metro Rail Limited; Chennai Metropolitan Development Authority; Commissioner, Greater Chennai Corporation, from encroaching upon or proceeding with the construction of work, at Thiru.Vi.Ka.Park, Shenoy Nagar, Chennai, towards development of amenities centre/mall and for a consequential direction to the respondents, to take necessary steps, to restore Thiru.Vi.Ka.Park as it existed prior to the handing over of possession to the Chennai Metro Rail Limited

2. Petitioners in W.P.No.34578 of 2018, are the residents of Shenoy Nagar. It is stated in the writ petition that Thiru.vi.Ka.Park was established as a part of Shenoy Nagar, a residential colony, which was founded in the year 1951 - 52. The park is one of the oldest parks in the City. It functions as a crucial lung space and provides green cover for Chennai. The park is spread over a substantial area of around 9 acres and has a great number of deep-rooted trees. The deep rooted trees in the park make it an essential catchment area for rains, thereby, alleviating water shortages and sustaining the ground water levels in the area. The park had over 300 trees, most of which were several decades old. The said park has been demarcated as an Open Space and Recreational use Zone, in the Master Plan for Chennai Metropolitan Area, 2026.

3. Shenoy Nagar had never seen any flooding, before Chennai Metro Rail Limited took over, even during heavy rainfall. This has been mainly due to the natural

draining and absorption of rain water in the park area. The same also improves the groundwater table in the area. The park also provides a home for a large variety of birds, which was a sight otherwise unseen in an urban metropolis such as Chennai. The protection of the few remaining habitats for such creatures within the City is a crucial integer in ensuring the protection of whatever fragile ecosystem remains in Chennai.

4. It was proposed to introduce metro rail in Chennai. Shenoy Nagar fell in the first route that was to be introduced as part of the metro rail. Chennai Metro Rail Limited, proposed a plan, in August 2008 and construction was commenced in the year 2011. The metro line was to be built as an underground construction below the park. The metro station was to be constructed on the park. It is also stated that prior to the commencement of the construction of metro station, the park provided a space to conduct recreational activities and a number of facilities, including a jogging track, children's play area, reading and meditation zones, and provided a home for a variety of birds. It is further stated in the writ petition that a number of trees in the park were cut down for metro station work, when the station was constructed. After the construction of metro station, petitioners expected that the park would be restored and handed over to the residents. Now, the petitioners have come to know that Chennai Metro Rail Limited, is proposing to develop a mall consisting of shops, food courts, in the metro station. Construction of shops, food courts, etc., will completely destroy the park. The entire park area is now proposed to be substituted with hard, concreted surfaces.

5. It is stated that construction of the mall/amenities center would result in increase in traffic congestion and parking of commercial vehicles in the residential area around the metro station, and the same would also lead to significant traffic problems, as the area is developed only as a residential area, and not as a commercial zone. It is stated that construction of the mall/amenities center, would further reduce the green cover of the park, adversely affecting the ground water table, drastically increasing the noise pollution in the area, and will have a significant adverse impact upon the quality of life of the residents of the locality. The same would not only damage the ecosystem of the park, but also result in more concentrated urbanization and commercialization, thus resulting in

further deterioration of the peace and calm of the residential locality. In fact, the frenetic construction work undertaken by the Chennai Metro Rail Limited, first respondent, at the said site has caused alarming levels of noise pollution, as is evident from the multiple complaints made by residents in the area. However, the first respondent has not relented in any manner.

6. It is stated that as per Regulation 20 of the Development Regulations for the Chennai Metropolitan Area issued by the Chennai Metropolitan Development Authority (CMDA), a mall/amenities center cannot be constructed in an area designated as an Open Space and Recreational Use Zone, even with the special permission from the requisite authorities. As such, the present development is illegal and ultra vires. As the construction work continues through the night, residents of the said locality have begun to face the impact of the consequent noise pollution.

7. It is stated that the petitioners have come to know that M/s.B.L.Kashyap & Sons Ltd., fifth respondent herein, has been awarded the works of "Design and Construction of Underground Commuter Amenities Center, at Shenoy Nagar Metro Station, including all temporary and permanent structures". It is stated that the residents attempted to raise their concern with Chennai Metro Rail Limited, but the same have fallen into deaf ears. It is stated that contrary to earlier assurances that restoration work on the park would begin by early 2018 and that the residents would be permitted to verify the same, at any point, the petitioners are presently not even permitted to go near the construction site. As such, the petitioners have been constrained to collect photographic evidence regarding the unabated construction work that is being carried on from nearby buildings.

8. Notice was issued on the writ petition. This Court, by an order, dated 28/12/2018, directed that no activities including usage of heavy machineries between 08.00 p.m., to 06.00 a.m., should be made. This Court, also directed the respondents not to cut trees on the path.

9. When Writ Petition No.34578 of 2018 was pending, a Public Interest Litigation in W.P.No.10415 of 2019 was filed by one Mr.C.Ravindran, who has also

sought for the issuance of a writ of certiorari, to call for the records of the Principal Secretary to Government, Housing and Urban Development Department, Chennai, third respondent, in G.O.Ms.No.70, dated 31/5/2018 and the same has been issued by Housing and Urban Development [UD 3 (29)] Department, wherein it is mentioned that total area of the park is around 37,900 sq.m. The proposed area covered by the vehicular parking at the basement will be 30,900 sq.m., and the area earmarked for property development will be 30,900 sq.m. In addition to the above, an extent of 4,800 sq.m., at ground level is ear marked for parking and an area of 29,000 sq.m., is earmarked for landscaping. The Chennai Metro Rail Limited has informed that the total cost of the project including the preparation of DPR is estimated as Rs.179.57 crores. A press release was also issued.

10. In the public interest litigation, it is stated that out of 300 trees, more than 138 trees were cut down, while constructing the metro station and the balance would be cut down, if the present project is implemented. It has been contended in the public interest litigation that proper permission has not been obtained as mandated, under the Town and Country Planning Act. The other submissions and averments have not been repeated by the court, because the factual aspects in both public interest litigation and writ petition are common.

11. On 8/4/2019, a learned Single Judge, has passed an order to place the file, W.P.No.34578 of 2018 before the Hon'ble Chief Justice of High Court, so that the writ petition No.34578 of 2018 could be heard along with the public interest litigation. The Hon'ble Chief Justice, by an order, dated 16/4/2019, directed the Registry to tag W.P.No.34578 of 2018 the public interest litigation and the writ petition be heard together.

12. Chennai Metro Rail Limited, has filed a counter in the writ petition No.34578 of 2018. It states that by G.O.Ms.No.148, dated 20/11/2009, a High Power Committee headed by the Chief Secretary was constituted. On 9/12/2009, the Committee, discussed the proposals for transfer of Government lands and lands belonging to the Corporation of Chennai, on permanent and temporary basis. It was decided that 8.44 acres of land in Thiru.Vi.Ka Park, Shenoy Nagar was recommended by the High Power Committee for temporary use by Chennai Metro Rail, to implement the project. State Government

gave administrative proposal for using 8.44 acres belonging to the Corporation in Thiru.Vi.Ka Park by Chennai Metro Rail Limited and accorded permission for the proposed development of area adjoining to CMRL Metro Station at Shenoy Nagar before taking up final restoration. Chennai Metro Rail Limited has stated that Shenoy Nagar station has been in operation, since May 2017 and restoration of park was being planned to incorporate the recent park development trends. Road near the park was being utilised as an alternative route to enter Anna Nagar East and Kilpauk. It was observed that this peaceful locality is choked with traffic as available road space is blocked with haphazard parking of vehicles by the residents and their visitors and various street vendors near the park.

13. It is further stated that a High Power Committee was constituted, on 8/3/2017, wherein a decision was taken by the Chennai Metropolitan Development Authority that it will lend the project cost to Chennai Metro Rail Limited interest free and accordingly, G.O.Ms.No.70, dated 31/5/2018 was issued. Paragraph No.6 of the counter which brings out the plan of CMRL for restoring the park reads as under:-

"It is not correct for the petitioners to allege in para 10 that the work is being carried on by the first respondent without any concern for lung space by cutting trees and not caring to replace those trees. In fact, the first respondent has already taken efforts to develop a mini forest in Thiru.vi.Ka.Park on all the four side of the entrance i.e., in Zone 1, 2, 3 and 7. Each zone will be accommodated with 1200 deep-rooted indigenous saplings. So far, planting work completed in Zone 2 and 3 i.e., 2400 indigenous deep rooted trees have been planted. In zone 1 and 4 planting of 2400 trees will be carried out before January 2019 tentatively. The park, which is likely to come up in the present place will be an upgrade with highly sophisticated, state-of-the-art facilities such as Water Fountains, open air theatre, basket ball Court, Badminton Court, reading area, amphi theatre, gallery seating, kids play area, yoga pavilion, skating rink, meditation zone, vertical landscape gate,

bicycle parking, jogging track, 8 shaped walkway, reflexology walkway, green lawn earthing therapy, Promenade, etc., shall be keeping a balance of the current lifestyle and the traditional practices. In fact, the commencement of the work for the development of the two level basements was undertaken only after due intimation to the Greater Chennai Corporation. This respondent will ensure that the park when restored will provide green environment as a heart for the residential centre at Shenoy Nagar. There will be four-wheeler and two-wheeler parking lots in Basement, which will cater to the needs of the society. Such heavy investment is required at this stage as the station is being developed keeping future needs in mind and the park restoration can be completed over the amenities centre in one-go. Similar work cannot be undertaken in other stations as alleged by the petitioners because there is constraint of land in the other areas. The park will be renovated to have much better flora with well equipped other facilities and will give the entire neighbourhood a better living space."

14. Chennai Metro Rail Limited states that apart from the parking facility in the land that is available, certain shops will also be opened. Chennai Metro Rail Limited has also filed counter affidavit in W.P.No.10415 of 2019, giving out the details of the permissions that were obtained, which reads as under:-

A. G.O.Ms.No.32 of 2009, dated 20/11/2009 issued by the Planning, Development and Special Initiatives Department

Government approved the recommendations of HPC and accorded administrative approval for usage of 8.844 acres of land in Thiru.Vi.Ka Park, Shenoy Nagar of land belonging to Greater Chennai Corporation on temporary basis for construction activities related to Chennai Metro Rail Project. It was also mentioned that the requirement of land is only tentative and shall be finalised by CMRL.

CMRL was allowed to enter upon the land due to urgency involved. CMRL shall ensure that trees in the periphery are protected as far as possible. After construction is complete, the park shall be completely restored by CMRL out of its own funds.

B. G.O.Ms.No.70 of 2018 dated 31/5/2018 issued by the Housing and Urban Development Department

After considering CMRL's proposed plan to have vehicular parking, public plaza, passenger amenities, landscape, etc., the CMDA authority resolved to fund the project at a cost of 179.57 crores as an interest free loan by utilising the regularisation fee collected and deposited by CMDA in the Government Account. In the 16<sup>th</sup> meeting of High Power Committee, dated 8/3/2017, decision was taken that CMDA could lend the project cost to CMRL on an interest free basis and the net revenue earned shall be jointly shared by CMRL and the Greater Chennai Corporation on the basis of terms mutually agreed. Thus, the Government had accorded sanction for the present CMRL development project.

C. G.O.Ms.No.7 of 2019, dated 29/1/2019 issued by the Planning, Development and Special Initiatives Departments

The Government of Tamil Nadu accorded administrative approval for implementing the project development activities and it was also added that the Managing Director, CMRL can enter into an agreement for revenue-sharing with Greater Chennai Corporation at the appropriate time.

D. Letter dated 21/1/2019 from the Greater Chennai Corporation to Chennai Metro Rail Ltd., regarding surrendering of lands and revenue sharing.

E. Tamil Nadu Combined Development

and Building Rules, 2019, where there is an exemption for metro Rail to obtain planning permission and building permit.

15. It is therefore, contended by the respondents that the project is being implemented after getting due permission from the authorities and that, all efforts would be taken to ensure that the tree cover on the park would be restored back by planting trees at the periphery of the park.

16. Heard Mr.Sathish Parasaran, learned Senior Counsel and Sri.T.Mohan, for the petitioners and Mr.Vijay Narayanan, learned Advocate General for the respondents. Perused the materials available on record.

17. For the implementation of the first phase in Chennai Metro project it was decided to have one elevated stretch from Koyambedu to Ashok Nagar. A High Power Committee was constituted by G.O.Ms.No.148, and discussions were held to consider the proposal of Chennai Metro Rail Limited for transfer of lands of State Government Department/Corporation of Chennai, both permanent and temporary basis, with the Secretary/Head of Departments concerned. In this direction, 8.844 acres of land in T.V.K Park, Shenoy Nagar was recommended by High Power Committee for the temporary use of Chennai Metro Rail Limited to implement the Chennai Metro Rail Project. At this juncture, it is pertinent to mention that this land was being sought only for the purposes of erecting structures for the station.

18. In the light of the discussion, G.O.Ms.No.32, dated 22/2/2010 was issued by the Planning Department and Special incentives (SI) Department, wherein, the Government have accepted the recommendation of the High Power Committee and accorded approval of using 8.44 acres of land in Thiru.Vi.Ka.park, Shenoy Nagar, belonging to Corporation of Chennai by Chennai Metro Limited, on temporary basis, for the construction activities relating to Chennai Metro Rail project for ancillary facilities. Government Orders which were issued later stated that trees in the peripheral areas of the park are to be protected as far as possible during the construction period. It was also specifically stated that after the construction of Metro station, park shall be completely restored. The cost of restoration of the park would be met by Chennai Metro

Rail Limited form its own funds.

19. It is therefore, clear that till the date of passing of G.O., dated 22/2/2010, there was no proposal to erect any structure for the purpose of parking in Thiru.Vi.Ka park. Decision of the Government was to give the land only on temporary basis to the Chennai Metro Rail Corporation, for the purpose of construction of Metro Station and the land was to be restored back at the cost to be borne by Chennai Metro Rail Limited.

20. This decision is further fortified by G.O.Ms.No.704, dated 3/8/2010, wherein the Government in compliance of the decision of the Hon'ble High Court, dated 25/6/2010, passed by this Court, in W.P.No.7811 of 2010, directed all the Government Departments to plant saplings, at the rate of 10 saplings for each tree fallen/cut down. Land was handed over by the Corporation to the Chennai Metro Rail on 4/2/2011, for the construction of the station.

21. It is pertinent to mention that as a part of the Chennai Metro Rail Network, Government set up Committees for implementing Schemes for parking and other activities. Delhi Metro Rail Corporation, which was assigned the project gave a detailed project report, regarding, boarding and alighting passengers. Based on this report, studies were made to consider the current and future demands for parking. Study report was prepared and it was estimated that by the year 2026, about 318 additional parking lots for 4 wheelers and 1,301 parking lot for two wheelers would be required. These figures were assessed on the basis of projected footfall in each station. Study report, indicated that additional space was required for the purpose of providing parking.

22. Since the Government was very seriously considering the need for providing extra parking facilities to meet the demand for the future, a meeting of the High Power Committee was held on 8/3/2017. In the meeting, the Chief General Manager (Underground), Chennai Metro Rail Limited, made a presentation, on the integrated development of the area adjoining to CMRL Metro Station, at Shenoy Nagar, Thiru.Vi.Ka.Park, before taking up the final restoration. It was indicated that the cost of development of parking, public amenities and property development would be Rs.180 crores. Corporation of Chennai indicated that land proposed for development

was transferred to Chennai Metro Rail Limited, on temporary lease and that the Chennai Metro Rail Limited has proposed commercial development and hence Corporation is entitled for a revenue share.

23. It was further decided in the meeting that the Chennai Metropolitan Development Authority can consider, lending the project cost to CMRL on interest free basis, so that Chennai Metro Rail Limited could create required infrastructure and maintain the same. The net revenue earned from the project would be shared with Greater Chennai Corporation, based on the terms mutually agreed with Chennai Metro Rail Limited.

24. In pursuance of the High Power Committee Meeting, Chennai Metropolitan Development Authority, Chennai, wrote a letter, dated 17<sup>th</sup> July 2017, to the Secretary to the Government, Housing & Urban Development Department, Secretariat, Chennai, requesting to accord administrative sanction, for funding the proposed development of vehicle parking and commercial development around Shenoy Nagar Metro Station and below Thiru.Vi.Ka.Park by Chennai Metro Rail Limited, at a cost of Rs.179.57 crores, as interest free loan, utilising the regularisation fee collected and deposited by CMDA, in the Government account.

25. After considering the above mentioned developments, Government passed G.O.Ms.No.70, Housing and Urban Development 2 D Department, dated 31/5/2018. The said Government Order, which is under challenge in W.P.No.10415 of 2019, reads as under:-

Housing and Urban Development [UD3 (2)]  
Department  
O R D E R

In his letter read above, the Member Secretary, Chennai Metropolitan Development Authority has stated that as part of the implementation of the Phase - I of the Chennai Metro Rail Corridor, the Chennai Metro Rail Limited is developing the Shenoy Nagar Underground Metro Station which is located under the Thiru.Vi.Ka.Park at Shenoy Nagar. The station is located on a prime area and surrounded by dense residential areas and office/commercial spaces. In order to optimize the space below the Shenoy Nagar Park, Chennai Metro Rail Limited has

prepared a detailed concept plan consisting of vehicular parking area, public plaza, passenger amenities, landscape, etc. It is mentioned that the total area of the park is around 37,900 sq.m. The proposed area covered by the vehicular parking at the basement will be 30,900 sq.m., and the area ear-marked for property development will be 30,900 sq.m. In addition to the above, an extent of 4,800 sq.m., at ground level is ear-marked for parking and an area of 29,000 sq.m., is earmarked for landscaping. The Chennai Metro Rail Limited has informed that the total cost of the project including the preparation of DPR is estimated as Rs.179.57 crores.

2. The above subject was placed before the Authority in its meeting held on 21/4/2017 and the Authority, vide A.R.No.11/2017 resolved to approve the funding the proposed development of vehicle parking and commercial development around the Shenoy Nagar Metro Station and below the Thiru.Vi.Ka.Park by Chennai Metro Rail Limited, at a cost of Rs.179.57 crores as interest free loan utilising the regularisation fee collected and deposited by Chennai Metropolitan Development Authority in the Government Account.

3. The Planning, Development and Special Initiatives Department in its remarks stated that in the 16<sup>th</sup> meeting of the High Power Committee under the Chairmanship of Chief Secretary held on 8/3/2017 a decision was taken that the Chennai Metro Rail Limited on interest free basis so that Chennai Metro Rail Limited could create required infrastructure and to maintain thereon. The net revenue earned from the project would be shared with Greater Chennai Corporation, based on the terms mutually agreed with Chennai Metro Rail Limited.

4. The Government have examined the proposal of Member Secretary, Chennai Metropolitan Development Authority and accord Administrative Sanction to Member Secretary, Chennai Metropolitan Development Authority for funding the project of

development of vehicle parking and commercial development at spaces around the Shenoy Nagar Metro Station Development and below Thiru.Vi.Ka.Park by Chennai Metro Rail Limited, at an estimated cost of Rs.179.57 crores (Rupees One hundred and Seventy nine crore and fifty seven lakhs only) as interest free loan to Chennai Metro Rail Limited.

5. This order issues with the concurrence of Finance Department vide its No.901/ACS(F) /P/2018, dated 14/3/2018."

26. Pursuant to this G.O., another Government Order in G.O.Ms.No.7, Planning, Development and Special Initiatives (S.I) Department, dated 29/1/2019, was passed, wherein it was noted that the Government in G.O.Ms.No.70 (quoted supra), had decided to accord administrative sanction to the Member Secretary, Chennai Metropolitan Development Authority, for funding the project of development of vehicle parking and commercial development at spaces around Shenoy Nagar Metro Station Development and below Thiru.Vi.Ka.Park by Chennai Metro Rail Limited, at an estimated cost of Rs.179.57 crores, as interest free loan to Chennai Metro Rail Limited. It was also stated that based on the funding approved by the Government in G.O.Ms.No.70, Housing and Urban Development, Dated 31/5/2017, Director of Projects, Chennai Metro Rail Limited, vide, letter, dated 18/1/2019, requested the Government to take up development works for providing public amenities at Thiru.Vi.Ka.Park, Shenoy Nagar, at an estimated cost of Rs.179.57 crores by Chennai Metro Rail Limited.

27. The said G.O.Ms.No.7, records that Government had accorded administrative sanction for implementing the project for development of vehicle parking and commercial development at spaces around Shenoy Nagar Metro Station Development and below Thiru.Vi.Ka.Park, at an estimated cost of Rs.179.59 crores by Chennai Metro Rail Limited. The balance were prepared under the proposed plan, a floor area of 19,865 sq.m., out of which, area was kept for four wheeler parking and two wheeler parking. 416 slots for four wheelers and 856 slots for two wheelers were identified. It was proposed that on the ground there would be lawns, jogging track, children play ground, eateries, public gathering

place/open theater, Tot lot, Badminton & basket ball courts, exhibition areas, boot camp zone, Meditation zone, transformer, internal foot footpaths, water fountain, Pergola, Sky light. The proposed community amenities at Shenoy Nagar has enlisted are:- Eateries, Bicycle Parking, Jogging track, 8 shaped walkway, Green lawn - Earthing therapy, Wall arts, Toy train, Water fountains, Vertical landscape gate, Differently abled parking, Yoga Pavilion, Reading zone, Meditation Zone, laughing Therapy zone, Open air theater, Skating Rink, Play Courts, Basket Ball Court, Gallery Seating, Badminton Court, Kids Play area, Outdoor Gym, Promenade.

28. Mr.Sathish Parasan and Mr.Mohan, learned counsel appearing for the petitioners would contend that Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, mandates that any person other than a State Government or local authority which intends to carry out any development on any land or building has to make an application to the appropriate planning authority for permission and that the appropriate planning authority has to either refuse or grant permission, having regard to the purpose for which a permission is required, the suitability of the place and the future development and maintenance of the planning area.

29. According to the petitioners, Chennai Metro Rail Limited is not a State Government or Central Government or local authority within the meaning of Town and Country Planning Act, 1971 and therefore, could not have started construction, without obtaining permission, under Section 49 of the said Act. Mr.Mohan would contend that in the absence of such permission, the entire project has to be stopped.

30. It is argued by the petitioners that none of the documents that have been filed in the proceedings fulfil the requirements of Section 49 of the Town and Country Planning Act, 1971. According to Mr.Mohan, neither G.O.Ms.70, Housing and Urban Development [UD 3 (2)] Department, dated 31/5/2018, or for that matter G.O.Ms.No.7, Planning, Development and Special Initiatives (S.I) Department, dated 21/1/2019, fulfil the requirement of Section 49.

31. On the other hand, Mr.Vijay Narayan, learned Advocate General would contend that a perusal of

G.O.Ms.No.70 by which administrative sanction has been accorded to the project by the Government itself substantiate the requirement of Section 49 of the Act and further contended that when the project is funded by the very same planning authority that would show that planning permission has been given by the planning authority. He would submit that had planning permission not been given, CMDA would not have agreed to fund the entire project and the Government would not have given a go ahead to the project.

32. Government of Tamil Nadu, issued G.O.Ms.No.10, Planning Development and Special Initiatives (CSS) Department, dated 18/1/2007, where orders were issued for the formation of a Metro Rail Project Committee under the Chairmanship of the Secretary to Government, Planning Development and Special Initiatives Department along with terms of reference. Government thereafter, issued G.O.Ms.No.156 Planning Development and Special Initiatives (S.I) Department, dated 11/10/2007, where the composition of the Committee was revised by including the Secretaries to the Government, as Members and the Chief Secretary as the Chairman.

33. Vide, Letter No.K-14011/42/2005-Metro (Vol.II), dated 18/2/2009, the Ministry of Urban Development, accorded approval for implementation of the Chennai Metro Rail Project, wherein Committee at three levels have been proposed for managing the issues relating to the project. In the said letter, one of the Committees, is a High Power Committee, be constituted at State Level under the Chairmanship of the Chief Secretary, Government of Tamil Nadu with other concerned Secretaries, etc., as members.

34. Government of Tamil Nadu, on the basis of the above, issued G.O.Ms.No.148, Planning, Development and Special Initiatives (S.I) Department, dated 20/11/2009 and constituted a committee for the implementation of the Metro Rail Project. The composition of the Committee are as under:-

| (1) | (2)                                                      | (3)             |
|-----|----------------------------------------------------------|-----------------|
| 1   | Chief Secretary                                          | Chairman        |
| 2   | Secretary dealing with the subject of Metro Rail Project | Member Convener |
| 3   | Secretary, Finance                                       | Member          |
| 4   | Secretary, Housing & Urban Development                   | Member          |
| 5   | Secretary, Transport                                     | Member          |
| 6   | Secretary, Municipal Administration & Water Supply       | Member          |
| 7   | Secretary, Highways and Minor Ports                      | Member          |
| 8   | Secretary, Revenue                                       | Member          |
| 9   | Secretaries concerned                                    | Member          |

35. High Power Committee is empowered to make recommendations to the State and Central Governments and their connected organisations, on the following issues:-

- (i). Land Acquisition
- (ii). Alienation of Government land (including Central Government land where applicable)
- (iii). Diversion of utilities
- (iv). Shifting of structures in the project alignment
- (v). Rehabilitation of project affected persons
- (vi). Inter-departmental and inter-agency co-ordination
- (vii). Clearances from regulatory agencies
- (viii). Any other matters requiring orders of Government or warranting the intervention of the Committee.

36. The said G.O., also brought out the powers of High Power Committee and the procedure for implementation of the decisions of the Committee. The powers of the High Power Committee, reads as under:-

(i). The Committee shall be empowered to take decisions on any matter which does not require circulation under the Tamil Nadu Government Business Rules. The decisions of the Committee shall be the final in such matters.

(ii). In all other cases, the deliberations and decisions of the Committee shall replace the procedure

of consultation of the Secretariat Departments required under the Business Rules, and shall form the basis of circulation.

Procedure followed by the Government for implementation of the decisions of the Committee, are as under:-

(i). In cases which do not require circulation under the Business Rules, orders may be issued based on the decisions of the Committee.

(ii). In cases requiring circulation relating to the two initial corridors of the Project which are covered by the delegation granted by the Cabinet vide G.O.Ms.No.1, Planning, Development and Special Initiatives Department, dated 7/1/2008, the following procedures shall be followed:-

a. If the matter falls within the powers of the Minister concerned under the Business Rules, the case shall be circulated to the Minister concerned (Deputy Chief Minister).

b. If the matter concerned goes beyond powers of the Minister concerned under the Business Rules, then the case shall be circulated to the Chief Minister through Minister concerned (Deputy Chief Minister). The file shall also be routed through the Finance Minister in cases involving sanction of Government funds. When seeking orders in circulation, the views of any Department which recorded its disagreement with the proposals either in the HPC or separately shall be specifically and clearly pointed out.

(iii). In cases requiring circulation concerning matters going beyond the first two corridors of the Metro Rail Project, the procedure in the Business Rules shall be followed.

(iv). The HPC shall be an Empowered Committee within the meaning of Item (xii) of the "General" Notes under the Ready Reckoner for Financial Procedure. The Committee shall have full powers to approve any proposals of expenditure required to be met by the State Government within the overall scope of the project approved by the Government provided the decision has the presence and concurrence of the Secretary to Government, Finance Department.

(v). Cases involving financial implications cleared by the HPC in which the Secretary to Government, Finance Department was present and did not dissent, need not be referred to Finance Department again for

concurrence, unless they involve expenditure on a New Service.

37. A perusal of the above would show that a High Power Committee constituted by the Government was to look into all the aspects of metro rail project. This would include allied matters like parking in the station, last mile connectivity, etc.

38. As stated earlier, G.O.Ms.No.148, dated 20/11/2009, has laid down the procedure for taking decisions for the implementation of the entire project. It is in pursuance to this and the meeting held by the Committee, Corporation of Chennai was directed to hand over the land to Chennai Metro Rail Limited, for the purpose of construction of the station.

39. As stated above, High Power Committee Meeting was held on 8/3/2017. The High Power Committee Meeting consisted of the Chief Secretary to the Government; Additional Chief Secretary to Government, Highways and Minor Ports Department; Additional Chief Secretary to Government, Finance Department; Principal Secretary to Government, Planning Development and Special Initiatives Department; Joint Secretary to Government, Municipal Administration and Water Supply Department; Deputy Secretary to Government to the Revenue Department; Commissioner of Land Administration; Commissioner, Chennai Corporation; Member Secretary, Chennai Metropolitan Development Authority; Managing Director, Metro Transport Corporation; Deputy Secretary to Government, Public Department; Collector, Chennai; Chief Engineer (Buildings), Chennai Corporation; Assistant Chief Engineer (Highways), Chennai; Superintending Engineer, Chennai; Executive Engineer, Chennai; Managing Director and Directors of various Departments of Chennai Metro Rail Limited.

40. Agenda No.6 in the Minutes of the Meeting was for development of space around Thiru.Vi.Ka.Park, and the same, reads as under:-

The Chief General Manager (Underground), CMRL made a presentation on the integrated development of the area adjoining to CMRL Metro Station at Shenoy Nagar-Thiru.Vi.ka.Park, before taking up the final restoration. It was indicated that the cost of development of parking, public amenities and property development would be Rs.180

crore.

The Commissioner, Greater Chennai Corporation indicated that the land proposed for development was transferred to CMRL on temporary lease and that the CMRL has proposed commercial development and hence Corporation is entitled for a revenue share.

It was decided in the meeting that the CMDA can consider lending the project cost to CMRL on interest free basis so that CMRL could create required infrastructure and to maintain thereon. The net revenue earned from the project would be shared with Greater Chennai Corporation, based on the terms mutually agreed with CMRL.

41. By G.O.Ms.No.9, Planning, Development and Special Initiatives (S.I) Department, dated 11/1/2018, being the Managing Director, Chennai Metro Rail Limited, was also included as part of the High Level Committee. Orders have been issued, constituting a High Power Committee (HPC) under the Chairmanship of the Chief Secretary, to take an expeditious decision, on the issues that may arise during the implementation of the Chennai Metro Rail Project, based on the suggestion of the Ministry of Urban Development, with the composition of 9 members and they are the Chief Secretary and the Secretaries of various Departments. This gives a clear indication that the Government is actively involved in the implementation of the entire project as a whole including the proposed increase in the parking facilities in the stations.

42. Keeping in line with this High Power Committee Meeting and the decision that Government have issued G.O.Ms.No.70, impugned herein, where land belonging to the Corporation was to be given to CMRL for development for which the administrative sanction was given to the Chennai Metropolitan Development Authority for funding the project for development of vehicle parking and commercial spaces.

43. Perusal of the above would show that it is a project which has been approved by the State Government, Planning Authority and Chennai Metro Rail Limited. In these circumstances, the question is whether the fact

that CMRL has not made an application in the prescribed format under Section 49 of the Town and Country Planning Act, 1971, would vitiate the entire proceeding. This Court is of the opinion that the purpose of Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, is to ensure that Planned Development of the City is not disturbed and to achieve this, Section 49 of the said Act by providing any person, who wants to carry out any development of a land or building has to apply for planning permission. Lack of planning permission in the prescribed format would be of no significance when the proposal of Chennai Metro Rail Limited is considered in High Power Meeting consisting of high officers, of the Government, as mentioned supra, and includes officers of the local planning authority i.e., Chennai Metropolitan Development Authority. The argument of Mr. Mohan that mere accord of administrative sanction does not amount to permission under Section 49 of the said Act, cannot be accepted in this case.

44. Narration of facts as mentioned above, would show that first permission was granted to Chennai Metro Rail Limited, (which was created for the purpose of implementation of Metro Rail project). Land was given on a temporary basis. Land has to be given to Thiru.Vi.Ka.Nagar, but at the same time, the Government was also considering the need for development of parking and spaces. It was felt by Chennai Metro Rail Limited that the land could be commercially exploited also and this proposal of Chennai Metro Rail Limited MRL was therefore, kept before High Power Committee.

45. High Power Committee after hearing the entire presentation, granted administrative sanction. The local planning authority, has not objected to the plan. On the other hand, by way of G.O.Ms.No.7, dated 29/1/2019, the Government, accepted the recommendation of High Power Committee, granted administrative sanction for funding the project of development of vehicle parking and commercial development at spaces around Shenoy Nagar Metro Station Development which was to be done by the planning authority itself.

46. Argument of Mr. Mohan that the planning aspect is covered by other department and the funding aspect is done by another department and therefore, grant of administrative sanction alone does not amount to grant of permission, cannot be accepted in this case. Chennai Metropolitan Development Authority has to be seen as one

entity and cannot be divided into two distinct units, which are not inter connected.

47. Mr.Mohan would contend that the Government have not granted any exemption from the operation of the Town and Country Planning Act, for the project in issue, under Section 113. Section 113 of the Town and Country Planning Act, 1971, reads as under:-

113. Notwithstanding anything contained in this Act, the Government, may, subject to such conditions as they deem fit, by Notification, exempt any land or building or class of lands or buildings from all or any of the provisions of this Act or rules or regulations made thereunder.

48. Mr.Mohan has placed reliance on G.O.Ms.No.179 dated 7/8/2012. The said G.O.Ms.No.179 issued by the housing and Planning Department, has been issued exercising the powers under Section 113 of the Tamil Nadu Town and Country Planning Act. Section 113 of the Town and Country Planning Act gives the power to the Government to exempt by Notification any land or building or class of land or buildings from all or any of the provisions of this Act.

Housing and Urban Development (UD1) Department  
O R D E R

The High Power Committee (HPC) for the Chennai Metro Rail Project in its meeting held on 28/10/2011 in item VII, accepted the course of action suggested by the Chief Planner, Chennai Metropolitan Development Authority and directed for early issue of exemption orders in Housing and Urban Development Department.

2. The Member Secretary, Chennai Metropolitan Development Authority has listed the following structures wherein exemptions were granted in Delhi Metro Rail Project by the Ministry of Urban Development, Government of India, as operational structures essential for running the metro and set the proposals to the Government to issue necessary orders to exempt the operational structures of Chennai Metro Rail Limited as listed below under Section 113 of the Tamil Nadu Town and Country Planning Act, 1971, through Notification:-

(i). All Metro Stations and tracks supporting structures at grade, elevated and

underground including entry structures, ancillary buildings to house Diesel Generator sets, chiller plants and electric sub-station, supply exhaust and tunnel ventilation shafts, etc.,

- (ii). Depots and maintenance workshops
- (iii). Traction substations.
- (iv). Operational Control Centers
- (v). Structures above the platform over the footprint of the Metro Stations.

3. The Government accept the proposal of the Member Secretary, Chennai Metropolitan Development Authority. Accordingly, the Government exempt the following Chennai Metro Structures under Section 113 of Town and Country Planning Act, 1971 as recommended by the High Power Committee.

(i). All metro stations and tracks supporting structures at grade, elevated and underground including entry structures, ancillary buildings to house Diesel Generator sets, chiller plants and electric sub-station, supply exhaust and tunnel ventilation shafts, etc.

- (ii). Depots and maintenance workshops.
- (iii). Traction sub stations
- (iv). Operational Control Centers
- (v). Operational structures above the platform over the footprint of the metro stations.

Subject to the following conditions:-

1. As recommended by the National Building Code (NBC), the Chennai Metro Rail Limited should submit the drawings/plans/details for information and record of the Chennai Metropolitan Development Authority before construction and installation.

2. In respect of other structures which are not defined/listed as operational structures, the Chennai Metro Rail Limited need to obtain prior planning permission from the Chennai Metropolitan Development Authority."

49. Perusal of the above G.O., would show that certain constructions over metro stations are exempted from the operation of the Town and Country Planning Act. This exemption has been given under the powers conferred under Section 113 of the Town and Country Planning Act, 1971. The said G.O., specifically excludes the operational structures of platform over the footprint of metro stations. Mr. Mohan would contend that under Section 113 of the said Act, has been given only for these structures and not to any other structures. The construction in question will not come within the four corners of the G.O., and therefore, there is no permission under Section 49 of the Town and Country Planning Act. The Chennai Metro Rail Limited has to obtain permission under Section 49 of the Town and Country Planning Act, 1971 or the Government have to specifically exempt the construction in question from the ambit of the Town and Country Planning Act, 1971. Mr. Mohan would argue that since G.O.Ms.No.179 dated 7/8/2012, gives specific exemption only to structures given in the G.O., the project in issue is not covered.

50. The learned Advocate General, relies on the Metro Railways (Construction of Works) Act, 1978, which is a Central Legislation covering the construction of railways. Section 2 (i) of the said Act reads thus:-

"metro railway" means a metro railway or any portion thereof for the public carriage of passengers, animals or goods and includes,

(a). all land within the boundary marks indicating the limits of the land appurtenant to a metro railway,

(b). all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, a metro railway,

(c). all stations, offices, ventilation shafts and ducts, warehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with, a metro railway:

51. Chapter IV of the Metro Railways (Construction of Works) Act, 1978, deals with Construction of Works. Section 18 of the said Act, reads as under:-

Functions of metro railway administration  
- Subject to the control of the Central Government, the metro railway administration shall, for the purpose of constructing any metro railway or any other work connected therewith -

(a). Make or construct in upon across, under or over any lands, buildings, streets, roads, railways or tramways or any rivers, canals, brooks, streams or other waters or any drains, water-pipes, gas-pipes, electric lines or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, ways or passages, as the metro railway administration thinks proper;

(b). alter the course of any rivers, canals, brooks, streams or water-courses for the purpose of constructing tunnels, passages or other works over or under them and divert or alter as well temporarily as permanently, the course of any rivers, canals, brooks, streams or water-courses or any drains, water-pipes, gas-pipes, electric lines or telegraph lines or raise or sink the level thereof in order the more conveniently to carry them over or under, as the metro railway administration thinks proper;

(c). make drains or conduits into, through or under, any lands adjoining the metro railway for the purpose of conveying water from or to the metro railway;

(d). erect or construct search houses, warehouses, offices and other buildings and such yards, stations, engines, machinery, apparatus and other works and conveniences as the metro railway administration thinks proper;

(e). alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead;

(f). draw, make or conduct such maps, plans, surveys or tests, as the metro railway administration thinks proper;

(g). do all other acts necessary for making, maintaining, altering or repairing and using the metro railway."

52. The learned Advocate General would state that

perusal of Section 2 (i) and Section 18 would show that it is the function of the metro railway administration to erect or construct such houses, warehouses, offices and other buildings and such yards, stations, engines, machinery, apparatus and other works and conveniences, as the metro railway administration thinks proper. The learned Advocate General would contend that metro railway can also alter, repair or discontinue such buildings, works and conveniences as aforesaid or any one of them.

53. The question that arises for consideration is, whether the provisions of Section 9 of the Tamil Nadu Town and Country Planning Act would be applicable and further as to whether the exemption which have been granted by G.O.Ms.No.179 would cover the works under Section 18 r/w. The Metro Railways (Construction of Works) Act, 1978?

54. As stated earlier, Section 49 of the said Act, would not apply to the case at all, for the reason that it is the State Government which is taking up the entire project. Chennai Metro Rail Limited gave its presentation which is accepted by the High Power Committee predominantly consisting of the State Government, the local planning authority, viz., CMDA. It cannot be disputed that parking in the railway station is an activity which is in connection with the metro railway. Further G.O., also exempts structures on the platform over the footprint of the metro stations. Any operating structure over the footprint of the metro station which has connection with the metro railway would have to be exempted. Exemption has been granted by the Government and thus G.O.Ms.No.179 has been issued. When the High Power Committee gave its proposal, it cannot be said that Government was not aware of G.O.Ms.No.179 or that G.O.Ms.No.179 was meant only for some structures. Being aware of G.O.Ms.No.179, the High Power Committee has recommended the proposal. Government accorded administrative sanction to the proposal and directed the planning authority to fund the proposal thereafter, the Government have issued G.O.Ms.No.7. In such circumstances, question is when the Government after being aware of G.O.Ms.No.179, and the exemptions granted therein, accepts the proposal of High Power Committee and directs grant of administrative sanction and the local planning authority accepts to fund the same, it cannot be said that there is a failure on the part of the Government to apply for planning permission in the format prescribed would be fatal to

the project in this case.

55. Contention of the learned Advocate General is planning permission sanction under Section 49 of the Town and Country Planning Act is not required in view of Rule 6 of the Tamil Nadu Combined Development and Building Rules, 2019, need not be gone into. Rule 6 of the Tamil Nadu Combined Development and Building Rules, 2019, exempts metro rail for obtaining planning permission and building permit for the purpose of installation, whether temporary or permanent, which are essential for the operation, maintenance, development or execution of metro rail.

56. Mr. Mohan, learned counsel for the petitioner would contend that constructing a parking lot or having shops are not essential for operation, maintenance and development or execution of metro rail. He would also submit that in any event these Rules, will come into force only from the date of publication of these Rules and cannot be made retrospective. Since this Court is of the opinion that this project has been initiated, though on the recommendation of the metro rail, but has been approved by the State Government is being fund by the very planning authority whose permission is required, not obtaining permission under Section 49 would not be fatal to the project.

57. Learned counsel for the petitioners have placed strong reliance on various provisions of the Tamil Nadu Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1959 and contended that there is violations. The said Act, defines , Open Space", "Park" and "Play-field" as under:-

"2 (c): "Open Space" means the State Government

2 (d): "Park" means a piece of land on which there are no buildings or of which not more than one twentieth part is covered with buildings, and the whole of the remainder of which is laid out as a garden with trees, plants or flower beds or as a lawn or as a meadow and maintained as a place for the resort of the public for recreation, air or light;

2 (e): "Play-field" means a piece of land adapted for the purposes of play, game or sport and used by schools or colleges or clubs.

58. Section 3 of the Tamil Nadu Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1959,

mandates that executive authority of every local authority shall, not later than six months from the date on which this Act came into force.

59. Section 8 of the Tamil Nadu Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1959, prescribes that no person shall, except with the previous sanction of the Government, construct any building or put up any structure likely to affect the utility of the park, play-field or open space or make any encroachment in or over any park, play-field or open space specified in the list published under Section 4 or 5.

60. Learned counsel for the petitioners state that Chennai Metro Rail Limited (not being the Government) is constructing and putting up structures over the park without the permission of the Government. A perusal of the files of Chennai Metropolitan Development Authority and Chennai Metro Rail Limited and the project report has filed in this Court would show that nature of park is not being altered. G.O.Ms.No.32, Planning, Development and Special Initiatives (S.I) Department, dated 22/2/2010 and G.O.Ms.No.704, Public (Miscellaneous) Department, dated 3/8/2010, stated supra, mandates the Government to put any ten trees for every tree uprooted.

61. Learned counsel for the petitioners have placed reliance on a Division Bench judgment of this Court, in W.P.No.4647 of 2010 {R. Chandran Vs. State of Tamil Nadu}. Facts in the said judgment are as under:-

"2. According to the petitioner, a news item was published in the newspapers that the Corporation Play ground is being converted into an underground Car Park to facilitate parking of cars. Though Venkata Narayana Road is a busy thoroughfare, there has never been any traffic congestion in view of the restricted number of commercial buildings in the area. According to the petitioner, the respondents are contemplating to sacrifice the play ground, which has been in existence for the last 50 years. It is stated that taking advantage of its classification of Open Space and Recreational Area, they have now decided to locate the car park in the Corporation play ground. The petitioners case is that the

play ground has a concrete flood lit basketball court with a gallery. Along side the gallery there is a changing room with toilet facilities. The other part of the play ground has an outdoor gymnasium and a provision has been made for the local residents to play volley ball, shuttle and badminton. There are about 10 clubs managed by enthusiasts like the petitioner to provide free coaching to young children and students belonging to different schools and colleges. The basket ball court in the playground has been the venue of State Level Basketball Tournaments by Public Sector Undertakings and Educational Institutions for the last 50 years. The Clubs have produced State Level players at varying age groups and belonging to middle and lower income families. It is contended by the petitioner with the depletion of open spaces in the City, due to construction of multi storeyed buildings, most of them in an around T.Nagar, the conversion of the playground into a Car Park would result in grave injustice to the residents of the locality. The petitioners case is that earlier, the Corporation decided to have an underground car park in Natesa Mudaliar Park, but the same was dropped and ultimately it was decided to convert the present park into an underground car parking and for that there had never been any consultation with the people, who have been residing there. In that view of the matter, the underground car parking shall be constructed only in open space and by no stretch of imagination, the corporation play ground be converted into underground car parking by treating the park and the play ground as a open space. It is, further, stated that the proposed action of the respondents smacks of arbitrariness, fairness and favoritism and it cannot be in public interest. The petitioner, therefore, challenges the proposed action of the respondents, inter alia, on the following grounds:-

- a) The unilateral decision of the respondents to convert a play ground into a car park is arbitrary, illegal and violative of Articles 14 & 21 of the Constitution of India.
- b) The respondents have failed to consider that this action is contrary to the provisions of the Town and Country Planning Act, 1971.
- c) The petitioner and the residents of the locality have a legitimate expectation to enjoy the facilities provided in the play ground.
- d) The respondents are estopped from changing the user of the play ground since it forms an integral part of the residential lay out and it was on the belief that the play ground would exist that residents have purchased plots and constructed residential houses.
- e) The respondents have no right to take a unilateral decision on the change of user without affording an opportunity to the petitioner and the other residents of the locality.
- f) The decision of the respondents to convert the playground into a car park has been taken to serve the vested interests of a few powerful personalities doing business in the area.
- g) The respondents have not made a practical/scientific evaluation of the parking requirement in the area and have decided to construct an underground car park at a substantial price only to enable a few businessmen in the area to augment their business.
- h) In fact, the car park will serve as an amenity for the business houses in the area and will in no way further the interests of the residents of the locality.
- i) the decision to construct an underground car park transgresses on the rights of the petitioner and other residents thereby

violating Articles 14 and 19 of the Constitution of India.

j) The respondents have failed to see that their proposal has been formulated without affording the residents an opportunity of being heard on the matter, which is not only a statutory right considering the fact that the playground is a notified one but also a constitutional right.

k) The provisions contained in Sections 5, 6, 7 & 8 of the Tamil Nadu Parks, Playfields and Open Space Act, 1959 have not been complied with.

62. The State Government in its counter affidavit, in Chandran's case (cited supra) gave its explanation as under:

3. In the counter affidavit filed by the 2nd respondent namely, the Corporation of Chennai it is stated that there has been tremendous growth in number of vehicles in the Chennai City in the last twelve years. The total number of motor vehicles in the Chennai City has increased manifold. Thiagaraya Nagar also known as T.Nagar is the busiest and largest commercial centre in the Chennai City. Numerous Jewellery, Textile Shops, Mega Departmental Stores, etc., is located in this area which attracts shoppers not only from other parts of Chennai but also from the other parts of Tamil Nadu and other parts of the country. The attractiveness of T.Nagar as the ultimate shopping destination has brought with it problems of congestion, pollution, parking and traffic problems. Due to the insufficient vehicular parking space in T.Nagar, the visitors park their two wheelers and four wheelers on the road side thereby causing traffic congestion in the entire area. Hence, the Corporation of Chennai proposed to examine the feasibility of providing under ground multi level car parking in the play ground at Venkata Narayana Road, T.Nagar belonging to the Corporation of Chennai. Since, only under ground parking system

needs to be considered without disturbing the present use i.e. playground, the Corporation of Chennai has appointed a consultant for carrying out traffic survey as well as feasibility study for the proposed underground parking lot at the play ground at Venkata Narayana Road, T.Nagar without affecting/disturbing the present use of the land i.e., playground. It is further stated that the Corporation is contemplating to construct a underground Multilevel Car Parking system in the basement floors only, and therefore, the existing playground activity in the ground level will not get affected due to this project. The 2nd respondents case is that the land comprised in Town Survey No.5900 of Mambalam Village is a corporation private land situated at Venkata Narayana Road, T.Nagar, Chennai, and the Corporation of Chennai had, in the interest of public, developed the said land as a playground, and since the proposed car parking facility will be in the basement floors only, it will not affect the playing activities on the ground level in any manner. The land under Survey No.5900 of Mambalam Village is a Corporation private land and the Corporation of Chennai had developed it as a playground in the interest of public. A similar land opposite to the playground has been developed as a public park by the Corporation of Chennai and well utilized by the public. In the same vision the Corporation of Chennai is proposed to construct an underground Car Parking facility below the ground level without affecting the present status i.e., playground. It is stated that the Corporation of Chennai is developing and maintaining parks and playgrounds at various location in the Chennai City in the interest of public and the same are wholeheartedly welcomed by the public. The peak hour demand of parking requirement in and around 500 meters of the play ground area, as per the traffic survey conducted

by the consultant, is 279 Cars and 1185 Two Wheelers.

63. The Hon'ble Division Bench held that playground at Venkatnarayana Road, T.Nagar, is listed both under the Tamil Nadu Parks, Play Fields and Open Spaces (Preservation and Regulation) Act, 1959 and the Development Control Rules. Rule 4 (A) of the Development Control Rules provides that where the use of the site or the premises is specifically designated as open space, it shall be used only for that purpose for which it has been so designated. The learned Division Bench, therefore, held that the decision for using the park and playground for the purpose of providing car parking and shopping complexes and commercial establishments is illegal, arbitrary, unwarranted and unjustified.

64. The Hon'ble Division Bench rejected the analogy given the Corporation that Palika bazaar a similar project has been upheld. The Division Bench relied on the Development Control Rules, as stated above. Mr.Mohan therefore, would contend that instant case is squarely covered by the said judgment. It was further observed as under:-

12. It has not been disputed by the 2nd respondent-Corporation that the land in question has been used as park and playground for the last several decades. There is a basket ball ground in the said park, which is said to be an historical ground for many aspiring basketball players of the country. Many basketball training sessions and tournaments have been conducted there, and several high dignitaries visited the place and distributed prizes to the winners of such tournaments. Similarly, public at large had been using the park since several decades. Learned counsel for the petitioner draw our attention to Section 2(34) of the Tamil Nadu Town and Country Planning Act inter alia defines public open space, which means any land whether enclosed or not belonging to the Central or any State Government or any local authority or any body corporate, owned or controlled by the Central or any State Government on which there is no building

or of which not more than one twentieth part is covered with buildings, and the whole or the remainder of which is used for purpose of recreation, air or light. Therefore, evidently the playground and the park could not be brought within the definition of public open space. It has also not been disputed that the playground at Venkata Narayana Road, T.Nagar has been listed as the playground both under the Tamil Nadu Parks, Play Fields and Open Spaces (Preservation and Regulation) Act, 1959 and the Development Control Rules. Rule 4(a) of the Development Control Rules provides that where the use of the site or the premises is specifically designated as open space, it shall be used only for that purpose for which it has been so designated.

13. From the Report it appears that T.Nagar has been shown primarily as commercial locality in Chennai. But, it appears that initially T.Nagar was primarily a residential area and only during the past few years there has been development in mushroom growth of commercial establishments. Many illegal constructions have been made for commercial purposes without providing space for car parking, as a result the regular stream of customers visiting these shopping complexes cause traffic congestion. In order to facilitate the customers visit in those shopping complexes and commercial establishments the respondents have decided to provide underground car parking by changing the character of the land which has been used as playground and park for the last six decades.

14. Prima facie we have no hesitation in holding that such decision of the respondent for using the park and the playground for the purpose of providing car parking and to facilitate the customers and the visitors for the shopping complexes and commercial

establishments is illegal, arbitrary, unwarranted and unjustified.

15. It was strenuously contended by the learned counsel appearing for the 2nd respondent Corporation of Chennai that this writ petition cannot be treated as a public interest litigation inasmuch as the petitioner in order to protect his vested interest over the land in question has moved this Court by way of public interest litigation. We are unable to accept the contention made by the learned counsel for the 2nd respondent for two reasons. Firstly, the petitioner is not claiming any personal interest over the land in question which has been used as a park and the playground by the general public and not by a particular community. Secondly, because of the mushroom growth of illegal construction of commercial establishments and shopping complexes there has been traffic congestion, which necessitated the provision for car parking. These commercial establishments and shopping complexes have been constructed without keeping any provision for car parking.

16. As noticed above, the land in question has been used by the public as park and playground for the last more than five decades and this is only the place of enjoyment for the public of that locality. It is well settled that right to life is not only fundamental right but also right to lead a decent life and to enjoy fresh air and water by using parks and greeneries, which is meant for the public at large.

17. During the course of argument the learned counsel for the second respondent would submit that apart from underground parking facility a commercial complex is also proposed, inter alia providing restaurants and other facilities to cater to the needs of the persons who use the car parking facility. It is further submitted that by establishing a commercial complex it would add to the revenue, as the revenue generated from the

car parking alone would not be sizable. Therefore, it is contended that the entire project as conceived is in the interest of the general public. We however fail to see any public interest as projected by the second respondent. In fact this commercial complex proposed was not mentioned originally. Significantly, even in the notice issued for public hearing no such proposal was projected. Thus it appears that the impugned proposal includes commercial venture; which is impermissible in a site which has been reserved for recreational purpose. An attempt was made by the second respondent to justify their proposal by drawing an analogy to that of the Metro Rail Project, at New Delhi, the Palika Bazaar at New Delhi etc. In our view the submission is misconceived. The sole determinative factor in a case like the present one, shall be classification of the land in question. It is not in dispute that the land in question has been classified as "play ground", notified as such in Annexure III of the Development Control Rules, which lists out the areas included in open space and recreational use zone. As observed by their Lordships of the Supreme Court in the Case Pt. Chet Ram Vashist, (supra) by virtue of the law, if an area is specified as open space the Corporation may at best get a right as a "custodian of public interest" to manage it in the interest of the society in general. Any breach of this custodianship and any attempt to change the 'use' of such land would be impermissible under law and would be against public interest.

65. Instant case is distinguishable on facts. In R.Chandran Vs. State of Tamil Nadu, a Hon'ble Division Bench of this Court found that Rule 4 (a) of the Development Control Rules was violated. Rule 4 (a) of the said Rules, reads thus:-

"Where the use of a site or premises is specifically designated in the Development Plan, it shall be used only for the purpose so designated."

66. After considering the facts in that case, the Hon'ble Division Bench held that Section 4 (a) of the Development and Control Rules was violated. In the present case, it cannot be said that there is violation of 4 (a) of the Development Control Rules. Material on record which has been provided shows that entire park is divided into six zones and they have been segregated as, Zone 1 - 5 numbers of Badminton Courts; Grass lawn; seating area; and Staircase for the basement access. Zone - 2 - Reflexology walkway; Grass lawn; Reading zone; Seating area; Meditation zone; Staircase for the basement access and Monuments/statue. Zone - 3 - Yoga Pavilion; Seating area; Laughing therapy zone; Elderly Physiotherapy; Staircase for the basement access and Grass lawn. Zone - 4 - Basketball Court; Seating area; Staircase for the basement access; and Water fountain. Zone - 5 - Kids play area; Floor fountain; Staircase for the basement access; Tot Lot; Merry Go round; Spider Net rock climber; Swing; See saw; Spring rider and slide. Zone - 6 - Oat; Skating Rink; Rock Climbing; AV Screen; Easy axis form the main entry of the park, placed in a distance that reading zone does not get disturbed.

67. On the basis of the above, this Court is of the opinion that since the character of the park is not being altered by the construction of underground parking shops, Section 49 of the said Act is not attracted. The facts in the case of R.Chandran does not indicate that the Government was a party to the decision making process or not. In the present case, the Government is a party to the decision making process. Secretaries of various Department have approved the project and development, on the land. Government Orders have been passed approving the project and the planning authority under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, itself is funding the project. In view of the fact that the character of the park has not been changed and in view of the fact that the Government have permitted such construction and the planning authority itself is funding the project, there is no violation of Sections 8, 9 and 10 of the Tamil Nadu Parks, Play-fields and Open Spaces (Preservation and Regulation) Act, 1959.

68. Learned counsel for the petitioners have placed reliance in Bangalore Medical Trust Vs. B.S.Mudappa & Others {CDJ 1991 SCC 703} where the Bangalore Development Authority has allotted a open

space in favour of Bangalore Medical Trust, for the purpose of constructing hospital. In those facts, the Hon'ble Supreme Court, observed in paragraph 27 and 28 as under:-

"27. The statutes in force in India and abroad reserving open spaces for parks and play grounds are the legislative attempt to eliminate the misery of disreputable housing condition caused by urbanisation. Crowded urban areas tend to spread disease, crime and immorality. As stated by the U.S. Supreme Court in Samuel Berman v. Andrew Parker, 398 U.S. 264, 30 AFTR2d 67-5811 (S.Ct. 1970):

".... They may also suffocate the spirit by reducing the people who live there to the status of cattle. They may indeed make living an almost insufferable burden. They may also be an ugly sore, a blight on the community which robs it of charm, which makes it a place from which men turn. The misery of housing may despoil a community as an open sewer may ruin a river.

..... The concept of the public welfare is broad and inclusive. ...The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. In the present case, the Congress and its authorized agencies have made determinations that take into account a wide variety of values. (Per Douglas, J.).

28. Any reasonable legislative attempt bearing a rational relationship to a permissible state objective in economic and social planning will be respected by the courts. A duly approved scheme prepared in accordance with the provisions of the Act is a legitimate attempt on the part of the Government and

the statutory authorities to ensure a quiet place free of dust and din where children can run about and the aged and the infirm can rest, breath fresh air and enjoy the beauty of nature. These provisions are meant to guarantee a quiet and healthy atmosphere to suit family needs of persons of all stations. Any action which tends to defeat that object is invalid. As stated by the U.S. Supreme Court in Village of Belle Terre v. Bruce Boraas, 39 L. Ed. 2d 797416US 1:

".... The police power is not confined to elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people".

See also Village of Euclid v. Ambler Realty Company, 272 U.S. 365 1926. See the decision of the Andhra Pradesh High Court in T. Damodhar Rao & Ors. v. The Special Officer, Municipal Corporation of Hyderabad & Ors., AIR 1987 AP 17 1.

69. These facts will not be applicable to the facts of this case because, as noted earlier, the park or the open space is not converted for any other purpose. Area remains to be as park with certain amenities which cannot be said to be purely commercial. Area for modification will not alter the nature of the park. Commercial complexes are not put over ground they are only under the ground. Park is being maintained as a park.

70. Reliance is placed on a Hon'ble Supreme Court, in the case of M.I.Builders Pvt Ltd., Vs. Radhey Shyam Sahu (CDJ 1999 SC 394), wherein again the Hon'ble Supreme Court had categorically stated that purpose for which the land was to be utilised cannot be changed. In that case, writ of mandamus has been issued by the High Court, to Mahapalika to restore the park in its original position and set aside the order of Mahapalika which had permitted underground shopping complex. In the said judgment, the Hon'ble Supreme Court, deprecated the way in which the tenders were given and observed as

follows:-

"72. It is not disputed that there is a Master Plan applicable to city of Lucknow. This Master Plan is prepared under the Development Act. It was submitted by the builder that the park could be exploited for commercial purposes as Aminabad has been shown to be a commercial area. No doubt Aminabad is a commercial area but that does not mean that the park can be utilised for commercial purposes. Rather using the park for commercial purposes would be against the Master Plan. However, in letter dated October 16, 1993 by Vice-Chairman, LDA to the Mahapalika did say :

"I am to inform you in this regard that the land use of the Jhandewala park situated in Aminabad is commercial one as per the Master Plan. This department has no objection on the layout plan submitted accordingly."

How this letter came to be written one may notice the sequence. High Power Committee meets on October 13, 1993 and is adjourned to October 19, 1993. Mr. G.C. Goyal is the Architect of Mahapalika and he forwarded the layout plan to LDA. Mr. Goyal is also officiating as Architect of LDA. Approval of the layout plan by LDA is dated October 16, 1993, which is 3 days before the next meet of the High Power Committee. This approval of the layout at LDA was recommended by the same person who forwarded it from the Mahapalika and in a great hurry. In the Master Plan for the city of Lucknow, it is Aminabad area which is commercial and that would not mean that Park can be put to commercial use. By letter dated November 23, 1993, LDA objected to the construction being undertaken in the Park without obtaining permission/No objection from it and required the construction to stop. Mahapalika in turn by its letter sent on the following day to the builder informed it of the objection raised by LDA and that before starting any construction the

permission/No objection of LDA as required under Sections 14 and 15 of the Development Act was necessary. It does appear to us that the Master Plan of the city of Lucknow could not have envisaged the Jhandewala Park as a site available for commercial exploitation considering the density and congestion in the area.

The reason for the construction of underground shopping complex given was that it would remove the congestion in the area. We have report of the Local Commissioner, which says that it would rather lead to more congestion. We think Mr. Dave is right in his submission that a decision to construct underground shopping complex by M.I. Builders had already been taken and that the whole process was gone into to confer undue benefit to M.I. Builders and the bogie of congestion was introduced to justify the action of the Mahapalika. It is wholly illegal and smacks of arbitrariness, unreasonableness and irrationality.

We may also note the argument of Mr. Adarsh Goel who said that Jhandewala Park was acquired by the State in the year 1913 and was given to Mahapalika for its management. He said under Section 41 of the Development Act read with Section 5 of the U.P. Regulation of Building Operations Act a Government order was issued on August 18, 1986 by the State Government whereby the use of park for any other use was prohibited. This direction of the State Government was incorporated in the Master Plan for the city of Lucknow and of course violated by allowing construction of underground shopping complex.

Action of the Mahapalika in agreeing to the construction of underground shopping complex in contravention of the provisions of the Act and then entering into an agreement with the builder against settled norms was wholly illegal and has been held to be so by the High Court. No doubt Mahapalika is a continuing body and it will be estopped from changing its stand

in the given case. But when Mahapalika finds that its action was contrary to the provisions of law by which it was constituted there could certainly be no impediment in its way to change its stand. There cannot be any estoppel operating against the Mahapalika. Principles laid in Union of India vs. M/s. Indo-Afgan Agencies Ltd. (1968 (2) SCR 366) and of Calcutta High Court in The Ganges Manufacturing Co. vs. Sourujmull and others (1880 ILR Calcutta 669) cannot apply to the facts of the present case.

Section 128 of the Act confers powers on the Mahapalika to sell, let of, hire, lease, exchange, mortgage, grant otherwise dispose of any property or any interest therein acquired by or vested in the Mahapalika. Appellant and the intervenors said that there was no disposal of any property and no interest in the land had been transferred by the Mahapalika to the builder. Respondent, as noted above, contended to the contrary. Under Section 54 of the Transfer of Property Act, 1882 agreement to sell does not create any interest in land. We are not concerned with this provision. Reference may, however, be made to Sections 60(b) and 62 (f) of the Easement Act, 1882. Though the licence under Section 60(b) is irrevocable but it can be revoked after the happening of certain event which is when the builder has recovered whole of his investment plus 10% of the profit. Reference may be made to a decisions of this Court in Chawalier I.I. Iyappan and another vs. The Dharmodayam Company [(1963) 1 SCR 85]. In this case an argument was raised by the appellant that he had been granted a licence and acting upon the licence he had executed a work of permanent character and incurred expenses in the execution thereof and, thereafter, under Section 60(b) of the Easement Act, 1882 the licence was irrevocable. This Court said:-

"In our opinion no case of licence really arises but if it does what is the license

which the appellant obtained and what is the licence, which he is seeking to plead as a bar. The licence, if it was a licence, was to construct the building and hand it over to the respondent company as trust property. There was no licence to create another kind of trust which the appellant has sought to create. It cannot be said therefore that there was an irrevocable license which falls under s. 60(b) of the Act. Even such a license is deemed to be revoked under s. 62(f) of that Act where the licence is granted for a specific purpose and the purpose is attained or abandoned or becomes impracticable. In the present case the purpose for which the license was granted has either been abandoned or has become impracticable because of the action of the appellant."

[The Indian Easement Act, 1882: Sections 52, 53, 60(b) and 62(f) :-

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

60. A license may be revoked by the grantor, unless:-

(a).....

(b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

62. A license is deemed to be revoked -

(a) to (e) .....

(f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable;] We find force in the submissions of respondents that by granting licence to the builder to construct underground shopping complex of permanent nature and to hold on to the same for a period which is not definite and then under the impugned agreement builder having been authorised to lease out the shops on behalf of the Mahapalika, it is a dubious method adopted to subvert the provision of Section 128 which apply as well in the case of lease and thus the transaction will also be covered by the expression "otherwise dispose of any interest in the property". It is, therefore, difficult to accept the argument of the builder that transaction is outside Section 128 of the Act. Now, first licence has been granted to the builder to enter upon the park and to execute a work of permanent character and incur expenses in the execution of the work, thus making the licence irrevocable. However, the licence is deemed to be revoked after the licensee has recovered his full cost on the construction plus 10% of the profit on the investment made by him. When this purpose is achieved by the licensee is anybody's guess. Not only that licensee, i.e., the builder is then authorised to lease out the shops so constructed on behalf of the Mahapalika. The result would be that to the builder provisions of Section 129 of the Act, cannot be thus made applicable. In such a situation for the builder to contend that the transaction is not covered by Section 128 and, therefore, Section 129 will not apply is certainly incredulous. Provision of Section 129 of the Act has, therefore, been flouted. Impugned agreement dated November 4, 1993 is bad having been executed also in contravention of the requirement of Section 129 of the Act.

The facts and circumstances when examined point to only one conclusion that the purpose of constructing the underground shopping complex was a mere pretext and the dominant purpose was to favour the M.I. Builders to earn huge profits. In depriving the citizens of Lucknow of their amenity of an old historical park in the congested area on the spacious plea of decongesting the area Mahapalika and its officers forgot their duty towards the citizens and acted in a most brazen manner.

Proposition of construction of underground shopping complex was so lucrative and the land so valuable that Mahapalika itself could have done it by collecting earnest money from the prospective allottees. But then nobody cared to examine this aspect and a plea was also advanced that Mahapalika had no finance to undertake the project. If one refers to the agreement the builder itself devised a self-financing scheme and it had not to spend anything from its own pocket. On mere booking of the shops builder could collect rupees one crore twenty five lakhs and would have collected more money with the progress of the construction at various stages. A public body would not sequester away its property by devising new methods.

Thus there are two distinct areas of challenge in the present case - (1) the agreement is fraud on power, prime land has been given for a song by the Mahapalika. The fact that the scheme is so lucrative could be seen from the fact that all shops less 5% were booked within six days of the advertisement appearing in December, 1993. Public interest and public exchequer have been sacrificed. Mahapalika is divested of its control over the project though notionally not for ever but the builder, on the other hand, has control over the project for all times to come and (2) construction is in contravention of the provisions of law as contained in Development Act. The project

has been entrusted to the builder in violation of the provisions of the Act. The decision taken by the Mahapalika was not on proper consideration and was not an informed objective decision. Judicial review is permissible if the impugned action is against law or in violation of the prescribed procedure or is unreasonable, irrational or mala fide. As said earlier High Court rightly exercised its power of judicial review in the present case. It has examined the manner in which the decision was made by the Mahapalika. Second principle laid in Tata Cellular's case [(1994) 6 SCC 651] applies in all respects. High Court held that the maintenance of the park because of its historical importance and environmental necessity was in itself a public purpose and, therefore, the construction of an underground market in the garb of decongesting the area was wholly contrary and prejudicial to the public purpose. By allowing the construction Mahapalika had deprived its residents as also others of the quality of life to which they were entitled to under the Constitution and the Act. The agreement smacks of arbitrariness, unfairness and favouritism. The agreement was opposed to public policy. It was not in public interest. Whole process of law was subverted to benefit the builder. We agree with the findings and conclusions of the High Court.

High Court in its impugned judgment has not doubted the capacity of M.I. Builders to undertake the project but then that is not the issue. The question is why it was not necessary to invite tenders for the project of such a high cost. Why it was thought that it was only the M.I. Builders in the country who could undertake the job? Why project report was not obtained to know the cost of the project? Why could it not be thought that there could be any other person who could undertake the job at a lesser cost and in equally competent

manner? Public interest has certainly been given a go bye. There was some undercurrent flowing to award the contract to M.I. Builders. High Court said "lest we are taken amiss we wish to make it clear that we do not doubt either the bona fides of the authorities or the competence of the respondents M/s. M.I. Builders to enter into the impugned agreement but we are of the view ..." The competence of M/s. M.I. Builders to undertake the project is not doubted when now it is seen that proper construction has been made but before taking decision to award the contract to it nobody knew its credentials. No attempt made whatsoever to consider if there was any other person more competent for the job or if of equal competence could offer better terms. In these circumstances, dictum contained in the case of Kasturi Lal Lakshmi Reddy vs. State of J & K [(1980) 4 SCC 1] becomes inapplicable. No advantage can be drawn by the builder from the decision of this Court in G.B. Mahajans case [(1991) 3 SCC 91] as here the whole process of awarding contract to M.I. Builders has been gone through in an unabashed manner and in flagrant violation of law with the sole purpose of conferring benefit on it. All said and done we fail to understand the certificate given by the High Court about the bona fides of the authorities in awarding the contract to M/s. M.I. Builders. The officers of the Mahapalika, who were impleaded as respondents by name, did not file any replies to contradict the allegations made against them. Rather it appears that it was a fit case where High Court should have directed an inquiry to be made as to how the project came to be awarded to M.I. Builders including the conduct of the lawyers."

71. The entire tenor of the judgment is on the manner by which tender was granted to M.I.Builders. Once again, as stated above, since the nature of park is not being changed and the project though has been initiated by Chennai Metro Rail Limited but has been

approved by the Government and being funded by the planning authority and since the park will retain its character as a park, the said judgment is distinguishable on facts.

72. Learned counsel for the petitioners placed reliance on a judgment of this Court, in Writ Appeal No.156 of 2000, in Sri Devi Nagar Residence Welfare Association Vs. 1. Subbathal and four others. In the said judgment, land was reserved for public purposes, as per lay out and kept vacant. The said area was sold as a lay out in violation of the purpose for which the land was to be used. Paragraph Nos.11 to 13 of the said judgment reads as under:-

11. The open space in a residential area or in busy townships is treated as lung space of the area. It provides fresh air and refreshment to the persons in the neighbourhood. Its presence ameliorates the hazards of pollution and it has to be preserved and protected for the sustenance of the men around. It is for the health and well-being of the inhabitants of the residential area. The same cannot be bartered for any other purpose. Apart from that, in view of the conditions imposed by the fifth respondent, by his proceedings dated 17.7.1974 addressed to the Executive Officer, Ganapathy Town Panchayat, which remain unchallenged by the owners of the layout land for all these years, the fourth respondent is estopped from using the area set apart as open space, for any other purpose.

12. Where open space for construction of public park is preserved and earmarked in the Plan for Development of a planned town, the Authorities cannot ignore or neglect to develop that open space into a public park within reasonable time. Unless an open space reserved for a public park is developed as such, the execution of the plan will remain incomplete. Buildings, as proposed in the plan, may have come up, amenities and civic amenities may have been provided and the people may have started living in the colony, yet the plan cannot be said to have been fully executed, if an open space meant for a park is not developed as such. The

duty of the authorities is to implement the plan in entirety making the area beautiful with attractive public parks. Their job is not over when the area becomes habitable.

13. Good parks expansively laid out are not only for aesthetic appreciation, but in the fast developing towns having conglomeration of buildings, they are a necessity. In crowded towns where a resident does not get anything but atmosphere polluted by smoke and fumes emitted by endless vehicular traffic and the factories, the efficacy of beautifully laid out parks is no less than that of lungs to human beings. It is the verdant cover provided by public parks and greenbelts in a town, which renders considerable relief to the restless public. Hence the importance of public parks cannot be under-estimated. Private lawns or public parks are not a luxury, as they were considered in the past. A public park is a gift of modern civilization, and is a significant factor for the improvement of the quality of life. Open space for a public park is an essential feature of modern planning and development, as it greatly contributes to the improvement of social ecology."

73. The said judgment would not apply to the facts of the case, because the area continues to be a park. Trees are being proposed to be cut for the purpose of underground parking. There is therefore, no violation of the provisions of Town and Country Planning Act, inasmuch as the purpose for which the area was reserved i.e., for the purpose of park is not being disturbed or altered. No construction is going to come over ground. Character of the park is not being changed.

74. Similarly, the judgment of this Court in *Exnora International Vs. 1. The Government of Tamil Nadu, rep. by its Secretary to Government, Public works Department, Chennai and three others (W.P.No.17234 of 1996)* and the judgment in *Consumer Action Group Vs. The State of Tamil Nadu, Chennai and others {2006 (4) CTC 483}* can also be distinguished on the very same lines.

75. It is further argued that Environmental Clearance, as required by Notification, dated 14/9/2006, has not been obtained. According to the petitioners, clause (2) of the Notification, dated 14/9/2006 lays down the type of projects which requires prior environmental clearance from the concerned regulatory authority. Clause 2 and 4 of the Regulation reads as under:-

"2. Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity.

(i). All new projects or activities listed in the Schedule to this Notification;

(ii). Expansion and modernization of existing projects or activities listed in the Schedule to this Notification with addition of capacity beyond the limits specified for the concerned sector, that is projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;

(iii). Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

4. Categorization of projects and activities:-

(i). All projects and activities are broadly categorized into two categories - Category A and Category B, based on the spatial extent of potential impacts and

potential impacts on human health and natural and man made resources.

(ii). All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MOEF) on the recommendations of an Expert appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this Notification;

(iii). All projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub-paragraph (ii) of paragraph 2, or change in product mix as specified in sub-paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union Territory level Expert Appraisal Committee (SEAC) as to be constituted for in this Notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project."

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76. Column 8 (a) which falls under Physical Infrastructure Including Environmental Services in the list of activities requiring prior clearance, as required in Clause 2 mentioned supra. Clause 8 (a) of the Regulation, reads as under:-

| (1)   | (2)                                                                    | (3) | (4)                                                                 | (5)                                                                                                                 |
|-------|------------------------------------------------------------------------|-----|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| 8     | Building/Construction projects/Area Development Projects and Townships |     |                                                                     |                                                                                                                     |
| 8 (a) | Building and construction projects                                     |     | >20000 Sq.mtrs and <1,50,000 sq.mts or built-up area                | # (built up area for covered construction; in the case of facilities open to the sky, it will be the activity area) |
| 8 (b) | Townships and Area Development Projects                                |     | Covering an area > 50 ha and or built up area > 1,50,000 sq.mtrs ++ | All projects under item 8 (b) shall be appraised as Category B 1                                                    |

77. By amendment to the said Notification, Ministry of Environment, Forest and Climate Change, has brought out a subsequent Notification dated 9<sup>th</sup> December, 2016, wherein, at column 8 (a) states that for buildings less than 20,000 sq. meters, it is sufficient to give a Self-declaration form to comply with the environmental conditions along with form 1 A and certification by the Qualified Building Environment Auditor to be submitted online by the project proponent besides application for building permission to the local authority. Petitioner would state that in any event, this amendment would not apply for the reason that building is more than 20,000 sq.mts. It is further stated that on 15th November 2018, another Notification issued by the Ministry of Environment, Forest and Climate Change, dated 15/11/2018, wherein Clause 8 (a) stated supra was further amended, which reads as under:-

| (1)                               | (2)                                                     | (3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building or Construction Projects | > 50,000 sq.mtrs and <1,50,000 sq.mtrs of built up area | <p>Note 1: The term "built-up area" for the purpose of this Notification is the built-up or covered area on all the floors put together including its basement and other service areas, which are proposed in the buildings or construction projects.</p> <p>Note 2: The projects or activities shall not include industrial sheds, educational institutions, hospitals and hostels for educational institutions</p> <p>Note 3: General conditions shall not apply</p> |

78. Learned counsel for the petitioners would submit that Environmental Clearance is mandated under law. Learned counsel for the petitioners place strong reliance on the Notification dated 14/9/2006, issued by the Ministry of Environment and Forests. Clause 4 of the said Notification reads as under:-

**Categorization of projects and activities:-**

(i). All projects and activities are broadly categorized into two categories - Category A and Category B based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.

(ii). All projects or activities included as Category 'A' in the Schedule, including expansion and

modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MOEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this Notification.

(iii). All projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub-paragraph (ii) of paragraph 2, or change in product mix as specified in sub-paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union Territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union Territory level Expert Appraisal Committee (SEAC) as to be constituted for in this Notification. In the absence of a duly constituted SEIAA or SEAC, a category 'B' project shall be treated as a Category 'A' project.

79. Clause 8 of the said Notification, reads as under:-

"Grant or Rejection of Prior Environmental Clearance (EC):

(i). The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decisions to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii). The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal

Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within fortyfive days of the receipt of the recommendations of the Expert Appraisal committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(iii). In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iv). On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.

(v). Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping or

appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

(vi). Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted. On such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice."

80. A perusal of the amendment made by the Notification dated 15.11.2018 would show that any building or construction project above 55,000 sqm built up area would require an environmental clearance. In the present case, even though G.O.(Ms) No.70 permits 39,900 sqm for vehicular parking at the basement, 39,800 sqm for property development and a further extent of 4,800 sqm for parking at the ground level and a further area 29,000 sqm for landscaping, the proposed underground parking and commuter amenities does not exceed 39,000 sqm. The learned Advocate General has stated that the first floor basement area is 19,775 sqm and the second floor basement area is 19,775 sqm. The total built-up area comes to 39,550 sqm, which is less than 50,000 sqm. The learned Advocate General has produced a general arrangement drawing showing the area statement, which reads as under:

| AREA STATEMENT          |            |
|-------------------------|------------|
| Basement 1 Floor area   | 19,775 sqm |
| Basement 2 Floor area   | 19,775 sqm |
| Total Built up area     | 39,550 sqm |
| Retail area             | 14,000 sqm |
| Common & Service area   | 3,108 sqm  |
| Parking to Floor area % | 83%        |
| Common to Floor area %  | 17%        |
| Number of Cars          | 338        |
| Number of Two wheelers  | 917        |
| EAST WING               |            |

|              |             |
|--------------|-------------|
| Total Area   | 9974.57 sqm |
| Retail Area  | 114.60 sqm  |
| Parking Area | 8315.62 sqm |
| Service Area | 548 sqm     |
| Common Area  | 996.35 sqm  |

WEST WING

|              |             |
|--------------|-------------|
| Total Area   | 9800 sqm    |
| Retail Area  | 129.24 sqm  |
| Parking Area | 8106.79 sqm |
| Service Area | 552.13 sqm  |
| Common Area  | 1011.57 sqm |

The learned Advocate General is categorical that the total built-up area does not exceed 50,000 sqm. and therefore no environmental clearance is required. He would state that the area mentioned under East wing and West wing is only a break up of the Total Area statement. In view of the above, the contention of the learned counsel for the petitioners that the total built-up area is more than 50,000 sq. mtrs. and therefore environmental clearance as required under the EIA Notification dated 14.9.2006 as amended upto 2018, cannot be accepted.

81. The learned counsel for the petitioners would contend that the Chennai Metro Rail Limited had applied for environmental clearance for the construction of Metro Rail Headquarters and other Metro Rail amenities. The learned counsel for the petitioners have filed an application for environmental clearance by the CMRL for the said project which has to come up at Block No.76, Mylapore Village, Mylapore Taluk, Chennai. The learned counsel for the petitioners would state that CMRL is aware that environmental clearance is necessary for all the building projects. A perusal of the plan would show that the total built-up area of the project is 62,814 sqm. Since the total built up area is more than 50,000 sqm, the CMRL has applied for environmental clearance. In the present case, as stated by the learned Advocate General, the total built up area is less than 50,000 sqm for which no environmental clearance is necessary.

82. It is a settled law that Environmental Clearance is not meant for stopping all development projects. The purpose of Environmental Notification is to ensure that there is no irreversible damage to the nature. The main object of EIA Notification is to prevent indiscriminate development activities which will affect the ecology of area. In fact, the National Green

Tribunal, Principal Bench, New Delhi, while dealing with the metro construction from Noida to Greater Noida, observed as under, in VIKRANT TONGAD Vs. 1. NOIDA METRO RAIL CORPORATION, NOIDA AND SEVEN OTHERS (M.P.NO.1092 OF 2015 IN ORIGINAL APPLICATION No.478 of 2015):-

"9. The purpose of the Notification of 2006 is not to prohibit development but to permit the same while protecting the environment and ecology. It is the requirement that there should not be irretrievable or irreversible damage to the nature and environment. In the event the project commenced damage then the entire project would fall beyond the known dimensions of principle of Sustainable Development and would apparently result in violation of Pre-cautionary Principle. Unchecked and indiscriminate development would certainly have adverse impacts upon the environment and ecology of the area. The learned counsel appearing for the respondents have not brought to our notice any judgment taking a view contrary to the view taken in the judgment of this Tribunal in the case of Vikrant Kumar Tongad (supra). 22 Taking environmental clearance would cause no prejudice to any of the stakeholders on the one hand, while on the other it will protect the environment, nature, the river and its banks. The official respondents and the project proponents both had been ad idem that the project did not require prior Environmental Clearance in terms of Notification of 2006. Since we have now held that the project is covered under the Notification of 2006, therefore, it will be obligatory on the part of the project proponent to take Environmental Clearance."

83. It is stated by the respondents that about 1,250 trees would be planted around the park. There are 50 species of trees which are going to be planted, in Zone 2 and 3 of Mini Forest Area, which are as under:

| SPECIES NAME | QUANTITY |
|--------------|----------|
| VILVA MARAM  | 40       |
| ELILAIPALAI  | 40       |

| SPECIES NAME       | QUANTITY |
|--------------------|----------|
| NEEM               | 40       |
| MANDARAI           | 40       |
| PUNNAI             | 40       |
| KALAKKAI           | 40       |
| SARAKONTRAI        | 40       |
| MANJAL KONDRAI     | 40       |
| SIDHAM             | 40       |
| INDIAN FIG         | 40       |
| ARASU              | 40       |
| MARUTHANI          | 40       |
| ILLUPAI            | 40       |
| MANGO              | 40       |
| MALAI VEMBU        | 40       |
| TREE JASMINE       | 40       |
| MAGIZHAM           | 40       |
| ARASLI             | 40       |
| PAVALA MALLI       | 40       |
| AMLA               | 40       |
| PUNGAI             | 40       |
| MADULAI            | 40       |
| ASHOKA             | 40       |
| WILD INDIAN ALMOND | 40       |
| NAVAL              | 40       |
| TEAK               | 40       |
| MARUTHU            | 40       |
| INDIAN ALMOND      | 40       |
| ELANTHAI           | 40       |
| COMMON FIG         | 40       |
| NEEM               | 40       |
| MANDARAI           | 70       |
| PUNNAI             | 70       |
| ARASU              | 70       |
| ELUPPAI            | 70       |

| SPECIES NAME  | QUANTITY |
|---------------|----------|
| MALAIVEMBU    | 35       |
| MARAMALLI     | 70       |
| PUNGAM        | 70       |
| MAHIZHAM      | 40       |
| PAVALAMALLI   | 70       |
| VILVAM        | 70       |
| ALSTONIA      | 75       |
| POOVARASU     | 70       |
| CASSIAFISTULA | 70       |
| ARAI          | 70       |
| NEER MARUTHU  | 10       |
| MARUTHANI     | 70       |
| NELLI         | 60       |
| MATHULAI      | 60       |
| NAVAL         | 60       |
| TOTAL NOS.    | 1250     |

84. It is also stated that a modern plantation viz., Miyawaki Plantation would be adopted to ensure that the tree cover in the area is not diminished. It is stated that this type of plantation is a form of planting trees to ensure dense plantation to recreate a cut tree cover and is used to rehabilitate degraded land, generate and enhance ecological wealth out of native natural resources and in attaining a stable eco system. In the written submissions filed by the CMRL it is stated that they intend to have in the four corners of park about 5200 trees which will provide sufficient greenery, flora and fauna, lung space and beautify the entire area. CMRL also intends to have trees planted around the periphery of the park with intention to transplant the existing trees wherever possible. It is stated that Miyawaki technique will enhance the flora and fauna in the area. It is stated in the written submissions that the Miyawaki technique has been successfully implemented in Koyambedu Station. It is stated that the trees which are going to be implanted are indigenous fast growing varieties and the dense canopy formed in a very short span of time of one and half years.

85. No doubt, it is well settled and it cannot be debated that trees cannot be sacrificed and that there cannot be indiscriminatory cut in the name of development. Government have to ensure proper plantation of saplings. They have undertaken that they will plant about 1,250 varieties of trees/plants, as mentioned supra. This Court has to balance between the need to provide adequate parking in the city on one hand and cutting of trees, which is detriment to the ecology on the other hand. We, therefore, direct the Government to ensure that the undertaking regarding planting of trees is implemented to ensure that tree cover, which is being lost for the time being would again come back. We also direct the noise pollution level in the area during the construction is within reasonable and permissible limits so as to cause least inconvenience to the residents of the area.

86. With these observations, writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

mvs.  
To

1. Chennai Metro Rail Limited  
Admin Building  
CMRL Depot  
Poonamallee High Road  
Koyambedu  
Chennai 600 107.
2. The Member/Secretary  
Chennai Metropolitan Development Authority  
Egmore, Chennai.
3. The Commissioner  
Greater Chennai Corporation  
Rippon Building  
Chennai 600 003.

4. The Additional Commissioner of Police - Traffic  
Greater Chennai Police  
Kilpauk,  
Chennai.
5. The Superintending Engineer  
Parks Department  
Greater Chennai Corporation  
Ripon Building  
Chennai 600 003.
6. Secretary, Union of India  
Ministry of Environment  
Forest and Climate Change  
Prithvi Block, First Floor  
Indira Paryavaran Bhawan  
Jor Bagh Road, Aliganj  
New Delhi 110 003.
7. Additional Chief Secretary to Government  
State of Tamil Nadu  
Planning, Development and  
Special Initiatives (S.I.) Department  
Secretariat, Fort St. George  
Chennai 600 009.
8. Principal Secretary to Government  
Government of Tamil Nadu  
Housing and Urban Development Department  
Secretariat, Fort St. George  
Chennai 600 009.
9. The Principal Chief Conservator of Forests  
Tamil Nadu Forest Department  
Panagal Maaligai, Saidapet  
Chennai 600 015.
10. Managing Director ,  
Chennai Metro Rail Limited  
Admin Building, CMRL Depot  
Poonamallee High Road  
Koyambedu ,Chennai 600 107.
11. The Member Secretary  
Tamil Nadu Pollution Control Board  
76 Mount Road, Guindy , Chennai 600 032.

+1cc to Mr.N.Ramesh , Advocate SR.No. 83140  
+1cc to Mr.T.K.Baskar , Advocate SR.No. 83128  
+2ccs to Mr.P.S,Ganesh , Advocate SR.No. 83121,83120  
+1 cc to spl Government Pleader Sr.No. 83007  
+1cc to Mr.R.Partha beneth , Advocate SR.No. 83319  
+2ccs to Mr.Nevida S.Menon , Advocate SR.No. 83276

+1 cc to Government Pleader Sr.No. 83339 (30/09/2019)  
W.P.Nos.10415 of 2019 and 34578 of 2018  
and W.M.P.Nos.10942, 10944, 3563, 3574,  
and 3576 of 2019 and 40103, 40107 and  
40109 of 2018

rsg  
A.SK(27/09/2019)



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