



W.P.No.19536 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Orders Reserved on : 21.02.2024

Orders Pronounced on: 03.06.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.19536 of 2018

and

W.M.P.Nos.28221 of 2022 and 22983 and 22984 of 2018

=====

M/s.Mahindra World City Developers Limited,
(formerly known as Mahindra Industrial Park Ltd),
a Company registered under the Companies Act,
having its Registered Office at
Mahindra Towers,
17/18, Pattullos Road,
Chennai-600 002.

.. Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Industries Department,
Fort St.George, Chennai-600 009.
2. The District Collector,
Kancheepuram District, Kancheepuram.
3. The Special Tahsildar (Land Acquisition),
Mahindra Industrial Park Scheme,
Melamaiyur, Chengalpattu.

4. Mrs.Shree Shetty
5. Mr.Sadan Kumar Shetty
6. Mrs.Rytik Shetty

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying
for issuance of a Writ of Certiorarified Mandamus to call for the records of the

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first respondent relating to the proceedings in G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016 published in Tamil Nadu Government Gazette, dated 03.08.2016 and quash the same and consequently direct the respondents 1 to 3 to continue the land acquisition proceedings in respect of lands measuring an extent of 3.21 acres in Survey No.405/3, 405/4 and 405/5 situate at Chettipunniyam Village, Chengalpattu Taluk, Kancheepuram District, from the stage of Section 4(2) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act.

For petitioners : Mr.Srinath Sridevan, Senior Counsel for M/s.Aishwarya S.Nathan

For respondents: Mr.T.Arun Kumar, Addl.G.P. for RR-1 to 3

Mr.V.Ayyadurai, Senior Counsel

for Mr.P.Muthukumarasamy for RR-4 to 6

ORDER

The petitioner-Company has filed the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to the proceedings in G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016, published in Tamil Nadu Government Gazette, dated 03.08.2016 and quash the same and consequently direct the respondents 1 to 3 to continue the land acquisition proceedings in respect of lands measuring an extent of 3.21 acres in Survey No.405/3, 405/4 and 405/5 situate at Chettipunniyam Village, Chengalpattu Taluk, Kancheepuram District, from the stage of Section 4(2) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997 (for short, "Industrial Purposes Act").



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2. The case of the petitioner in brief, as culled out from the affidavit filed in support of the Writ Petition, is as follows:

(a) The petitioner-Company has developed an industrial park at Chengalpattu, known as "Mahindra World City". The Government initiated land acquisition proceedings under the Land Acquisition Act, 1894, at the instance of the petitioner in 1999 for the subject lands of 3.21 acres, which are the only lands situated at the entrance to the Park and the Government had issued administrative action, vide G.O.Ms.No.630, Industries Department, dated 24.09.1998. The petitioner paid the tentative cost of Rs.1.95 crores as directed by the Government.

(b) The land acquisition proceedings reached a decisive stage with the Government issuing order under Section 4(2) of the Industrial Purposes Act, to the land owners seeking delivery of possession of the acquired lands on 05.02.2007. At this stage, the land owner challenged the land acquisition proceedings by filing Writ Petition before this Court in W.P.Nos.18114 to 18116 of 2000, in which by order dated 31.08.2001, this Court quashed the Notification dated 20.09.2000 issued under Section 6 of the Old Land Acquisition Act of 1894, with liberty to the respondents 1 to 3 to proceed afresh from the stage of enquiry under Section 5-A of the old Land Acquisition Act.

(c) During the pendency of the said Writ Petitions, without notice to the petitioner, the Government withdrew the land acquisition proceedings in respect



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of the subject land(s) based on the representation of the land owners, vide G.O.Ms.No88, Industries (MIE-1) Department, dated 30.07.2009. The petitioner challenged the withdrawal of the land acquisition proceedings, vide aforesaid G.O., and the Division Bench of this Court, by order dated 04.03.2014, set aside the aforesaid G.O. and remitted the matter back to the Government for fresh consideration. The Government passed the impugned G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016, withdrawing the land acquisition proceedings by retaining the earlier decision, vide G.O.Ms.No.88, Industries (MIE.1) Department, dated 30.07.2009, which was set aside by this Court on 04.03.2014 in Writ Appeal No.564 of 2009.

(d) The Government has not taken fresh decision as directed by this Court. The Government has not responded to several representations made by the petitioner. Hence, the present Writ Petition is filed for the relief stated supra.

3. The petitioner-Company has further filed affidavit, dated 06.09.2022 stating as follows:

(a) The petitioner-Company is one of the leading real estate development companies having projects across the country. They had set up a world class industrial park comprising Special Economic Zone (SEZ) and Domestic Tariff Area near Chengalpattu as a public-private partnership with TIDCO, pursuant to the Memorandum of Understanding, dated 22.11.1996. The petitioner-Company is

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the developer of Mahindra World City SEZ by virtue of Letter of Approval, dated 08.09.2004 issued by the Ministry of Commerce and Industry, Government of India. The present Writ Petition has been filed challenging the dropping of acquisition proceedings pertaining to Sy.Nos.405/3, 405/4 and 405/5 situated at Chettipunniyam Village, Chengalpattu, vide G.O.(Ms).106, Industries (MIE.2) Department, dated 25.07.2016.

(b) The acquisition proceedings pertaining to the above stated lands, were dropped on the assumption and premature conclusion that the said land(s) were not essential for the entry, exit and operation of the Industrial Park. However, this conclusion has been arrived at without full understanding of the topography or the local area and the special circumstances which are present when operating such a large Industrial Park. The single entrance to the Mahindra World City (MWC), Chengalpattu is on the GST Road (NH.45), which is a 75-Meter wide Road, having 4 lanes on either side. This is a National Highway and connects Chennai with Trichy.

(c) The Central Avenue Road directly links the GST Road, wherein, at the juncture, a Temple and a bus terminus are located and due to the presence of the Temple and bus terminus, there is huge movement of people, vehicles, etc., and traffic at this area and juncture. The juncture, not only witnesses heavy vehicle movement, including transport trailer trucks, goods trucks, vehicles etc., but also lot of local traffic from the residential areas due to the presence of



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Temple and the bus terminus and naturally, this is a combination of residents, pedestrian and two-wheeler traffic along with industry heavy vehicle traffic. This is a precarious situation and can lead to hazardous consequences.

(d) The above geographical location takes up importance in the light of the special needs and circumstances required in operating the large Industrial Park. Further, more than 70,000 people directly and indirectly, are employed in the industries situated within the Industrial Park. Moreover, the Industrial Park has many large multi-national manufacturing companies, which manufacture and export larger automobile parts, solar panels, turbine fan blades, wind turbine funnel, etc. As a consequence, large and heavy vehicle movement is regular in the Industrial Park, and the roads and entrance have to be equipped to handle the same. These manufacturing industries need clear and unobstructed area for vehicular movement for material transport. The current access road is not conducive to appropriate transport and movement of the materials. This leads to traffic build-up on the Highway which can be dangerous to users. Currently, the access road to the Industrial Park is 45 mts. wide. This includes sewer lines, two-wheeler lane and pedestrian walk-ways. Further, this also involves sharp turns which are tricky to maneuver for large heavy industrial vehicles. The turning radius is large for heavy weight industrial vehicles and the road width and access have to be designed, keeping in mind these special requirements.

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(e) Having regard to the nature of vehicles and traffic, which enter and exit from the Industrial Park, experts say that the entry juncture from the GST Road should atleast be 100 meter-wide for appropriate traffic movement both ways. Further, considering that the Industrial Park also houses various residential areas, schools and it also has regular footfall from the local villages around the Industrial Park, and a buffer zone of 30 meters is also required along with 6m to 8m pedestrian path-way.

(f) Keeping in mind the above consideration, the petitioner had sought for additional land to be acquired for the entrance. This was accepted by the State Government and acquisition proceedings were initiated. The area under Survey Nos.405/3, 405/4 and 405/5, comprising of approximately 320 acres (proposed acquisition area) is necessary for adequate traffic movement and ingress and egress of the Industrial Park.

(g) Thus, the conclusion arrived at by the first respondent in the impugned G.O. is premature and it does not consider the special requirements of the unique situated and created by existence of a highly specialised Industrial Park in a location which also sees regular pedestrian and vehicular movement. The first respondent ought to have conducted a survey and also taken expert opinion before a final conclusion is reached. The first respondent appears to have been under the assumption that the petitioner-Company does not have real need of the said lands. This is false and in fact, has no basis.

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4. The first respondent has filed counter affidavit stating as follows:

(a) The Government in G.O.Ms.No.630, Industries Department, dated 24.09.1998, had accorded administrative sanction for acquisition of lands of an extent of 334.875 hectares under the Land Acquisition Act, 1894, in Paranur, Veerapuram, Thenmelpakkam, Rajakulipettai, Anumanthai, Anjur, Kunnavakkam and Chettipunniyam Villages of Chengalpattu Taluk, Kancheepuram District, for setting up of Mahindra Industrial Park. Accordingly, necessary proceedings were initiated for acquisition of lands. In the meanwhile, one Thiru.P.Ravi and others preferred a representation dated 09.04.2008, requesting the Government to drop the land acquisition proceedings against their lands in S.No.405/1B2B of Chettipunniyam Village, Chengalpattu Taluk, Kancheepuram District and another Thiru.Sadhan Kumar Shetty and others, the land owners, in respect of S.No.405/3, 405/4 and 405/5 also preferred a representation dated 11.04.2008, requesting the Government to drop the land acquisition proceedings against their lands in Chettipunniyam Village, Chengalpattu Taluk, Kancheepuram District. Based on the recommendation of the District Collector, Kancheepuram, the Government, in G.O.Ms.No.88, Industries Department, dated 30.07.2009, had ordered that the land acquisition proceedings for the following lands in Chettipunniyam Village, Chengalpattu Taluk, Kancheepuram District, have been dropped, subject to the condition that the petitioners should withdraw the

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related cases filed in this High Court:

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(i) S.No.405/1B2B purchased by Thiru.Ravi and others:	1.67 acres
(ii) S.Nos.405/3, 405/4 and 405/5 purchased by Thiru.S.Sadhakumar Shetty and others	: 3.21 acres

Total	<u>4.88 acres</u>

(b) The aforesaid Government Order was challenged by the Mahindra World City Developers Limited before this Court in Writ Appeal No.564 of 2010, in which, this Court, by order dated 04.03.2014, set aside the aforesaid G.O., and directed to consider the matter afresh, after issuing notice to Mahindra World City Developers Limited and providing an opportunity of hearing to all concerned. After considering all the relevant factors and after detailed examination of the submissions made by M/s.Mahindra World City Developers Limited and the land owners and based on the field inspection and on a perusal of the records relating to the matter, the Government had decided that the earlier decision to drop the land acquisition proceedings with regard to S.No.405/3, 405/4 and 405/5 was to be retained and to cancel the drop of the land acquisition proceedings with regard to S.No.405/1B2B and accordingly, orders were issued by the Government as per G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016, challenging which, the present Writ Petition is filed.

(c) In G.O.Ms.No.630, Industries Department, dated 24.09.1998, the

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Government have accorded administrative sanction for acquisition of lands of an extent of 334.875 hectares under the Land Acquisition Act, 1894 in Paranur, Veerapuram, Thenmelpakkam, Rajakulipettai, Anumanthai, Anjur, Kunnavakkam and Chettipunniyam Villages of Chengalpattu Taluk, Kancheepuram District, for setting up of Mahindra Industrial Park. Accordingly, necessary proceedings were initiated under the Land Acquisition Act, 1894 and the Notification under Sections 4(1) and 6 of the Act were published in respect of the lands in Chettipunniyam Village as under:

<i>Sl. No.</i>	<i>Survey No.</i>	<i>Extent (in hec)</i>	<i>Publication of Notification under Section 4(1)</i>	<i>Publication of Notification under Section 6</i>
1	405/1A2	0.04.5	G.O.Ms.No.676, Industries(MID.1) Department, dated 01.09.1999	G.O.Ms.No.334, Industries(MID.1) Department, dated 20.09.2000
2	405/1B2	0.68.0		
3	405/3	0.43.5		
4	405/4	0.43.0		
5	405/5	0.43.5		
	Total	2.02.5		

(d) The petitioner-Company themselves had accepted that enough land has been provided for the entry Road. As far as the essential factors alleged by the Company, such as that the land dropped was very essential to operate the huge industrial park without bottle-neck, to enter into the industrial park as well as to enter NH.45 in the years to come, when there will be much more traffic intensity and also to provide commercial centre comprising the administrative



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office, modern and fully equipped security system, reception centre and public amenities like bus bay/stands/shelters, etc. These factors have already been considered carefully in detail and separate security arrangements were found not necessary, in view of the fact that the company inside the industrial park, have their own security arrangements including the petitioner. Similarly, it was found that other requirements like administrative office, etc., are available nearer to the industrial park and as such, there is no necessity for such requirements abutting the National Highways. These factors were carefully considered and then only, orders were issued by the first respondent.

(e) The petitioner-Company had been able to operate their industrial park without the lands in S.Nos.405/3, 405/4 and 405/5 for the past 14 years. The petitioner has about 1400 acres, which is over and above the area for which administrative sanction was given. The petitioner-Company is expanding well through acquisition of lands as well through private negotiation and as such, they are having enough lands for creating the administrative office, security, parking and other such amenities, as may be required by them. Though Notification under Section 4(1) and Declaration under Section 6 of the Land Acquisition Act, were published for acquisition of the lands in S.Nos.405/3, 405/4 and 405/5 of Chettipunniyam Village, this Court in W.P.Nos.18114 to 18116 of 2006, dated 31.08.2006, had quashed the Declaration issued under Section 6 in respect of the aforesaid lands of Chettipunniyam Village and issued direction to

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make enquiry under Section 5-A of the Land Acquisition Act afresh and as such, the enquiry under Section 5-A of the Land Acquisition Act was conducted on 09.11.2001, besides continuing the land acquisition proceedings under the Tamil Nadu Acquisition of Land for Industrial Purposes Act. However, the respondents 4 to 6 have again approached this Court by filing W.P.Nos.6010 to 6012 of 2007 against the Notice in Form-E under Section 4(2) of the Tamil Nadu Acquisition of Land for Industrial purposes Act and obtained initially an order of stay of acquisition. The second respondent has also recommended that if exemption to the above lands are given from acquisition, the project plan will not be affected, since there is already an approach road to the petitioner-Company and the lands are surrounded by Reserve Forest. After careful examination of the recommendation of the second respondent, the Government decided to accept the request of the respondents 4 to 6 and accordingly, issued orders to drop the land acquisition proceedings for the lands in S.Nos.405/3, 405/4, etc., of Chettipunniyam Village, Chengalpattu Taluk, Kancheepuram District, vide G.O.(Ms).No.88, Industries Department, dated 30.07.2009. Moreover, the petitioner is well aware of the permission granted by the Ministry of Environment and Forest, Government of India, on 11.10.198 to use 1.84.5 hectares of land in Thirutheri Reserve Forest to develop the road with 45 meters with certain conditions. After complying with the conditions, the petitioner is utilising the aforesaid forest land, after developing it according to their requirements for the

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past 14 years and as such, the lands in S.Nos.405/3, 405/4 and 405/5 cannot be claimed as inevitable and unavoidable necessity, as contended by the petitioner.

(f) Though there are procedures contemplated under the Land Acquisition Act of 1894 and the Industrial Purposes Act of 1997, in view of repeated writ petitions having been filed by respondents 4 to 6 before this Court and taking into account the various facts, such as the petitioner's requirements by getting lands in Thirutheri Reserve Forest, adequacy of the lands already acquired for their requirements for creating the administrative office, security, parking and other such amenities etc., the first respondent carefully examined the issue in detail and passed orders to drop the lands from acquisition, since these lands were found not necessary to meet the alleged requirements of the petitioner.

(g) Though the first respondent filed counter in the earlier Writ Petition in W.P.Nos.18114 to 18116 of 2000 filed by Miss.Rytik Shetty, Miss.Shree Shetty, Master Sadan Kumar Shetty (respondents 4 to 6 herein) detailing the necessity for acquiring the land(s) in question, this Court, by order dated 31.08.2001 in the said W.P.Nos.18114 to 18116 of 2000, quashed the Declaration issued under Section 6 in respect of the subject land(s) in Chettipunniyam Village and issued direction to make enquiry under Section 5-A of the Land Acquisition Act afresh, which was accordingly conducted on 09.11.2001 and simultaneously, the land acquisition proceedings were conducted under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. However, in W.P.Nos.6010 to 6012 of

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2007 and 7761 to 7763 of 2007 filed by Shree Shetty, Rytik Shetty, Sadan Kumar Shetty in this Court against the notice in Form-E under Section 4(2) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, this Court granted stay of dispossession. Hence, the possibility of granting exemption was explored and the second respondent had also reported that the land(s) for which exemption was requested from the land acquisition proceedings, were not contiguous and situated as small pieces, and the same is not fit for project work. The second respondent further reported that the petitioner-Company (requisitioning body) is already utilising 100 feet road with the permission of the Forest Department and that its width is 43 meters, and therefore, the project would not be affected if exemption is given to the subject land(s). The first respondent therefore issued orders in G.O.(Ms).No.88, Industries Department, dated 30.07.2009, after duly considering all the relevant factors. Subsequently, the petitioner-Company challenged the said G.O. before this Court and this Court, by judgment dated 04.03.2014 in the appeal in Writ Appeal No.564 of 2010 and W.P.Nos.20492 of 2009, 1031 of 2012 and 1385 of 2012, set aside the aforesaid G.O., and directed to consider the matter afresh, after issuing notice to the petitioner-Company. Accordingly, personal hearing was conducted on 05.12.2014 with the petitioner-Company and the land owners concerned and they have made their submissions in the matter along with written statement in support of their claim. After considering all the relevant factors and on detailed

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examination of the submissions made by the petitioner-Company and the land owners made in their written statement and based on the field inspection and on a perusal of the records, it was decided to retain the earlier decision to drop the land acquisition proceedings with regard to S.Nos.405/3, 405/4 and 405/5 and orders were issued accordingly in G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016.

(h) The responsibility alleged to have been undertaken by the petitioner-Company for providing threat-free environment in the park, is not relevant to the subject matter, since, as already, as rightly mentioned in paragraph 6 of G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016, the individual companies inside the Industrial Park, have their own security arrangements and as such, separate security arrangements are not necessitated or warranted at the entrance abutting the National Highways and main area of Industrial Park. Similarly, availing the services of the Central Industrial Security Force by Infosys for its Bangalore and Mysore units, are quite irrelevant to the issue involved in this Writ Petition. It is for the petitioner-Company to make security checks of vehicles at the entry point and such security checks are not obstructed in any way for the past 14 years and their apprehension that it would create a huge traffic hazard on the National Highway, is purely imaginary. Further, the proposal for construction of grade separator suggested by the petitioner-Company, does not require the dropped land(s), since it is connected

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with the widening of the opening of Central Median in N.H.45 at Km.50/485 to facilitate smooth flow of traffic at NH.45. A field inspection carried out by a senior official of Industries Department to understand and verify the claim of the petitioner-Company and respondents 4 to 6 revealed that the flow of vehicles, checking of the same, etc., were found to be going on smoothly and without dropped land(s) and the petitioner-Company had been able to operate their industrial park for the past 14 years. The petitioner-Company has about 1400 acres, which are much above the area for which administrative sanction has been given, which proves the un-stinted support rendered to the petitioner-Company by the Government in acquiring the required land(s).

(i) This Court, in the judgment dated 04.03.2014, passed in W.A.No.564 of 2010, etc., set aside G.O.(Ms).No.88, Industries Department, dated 30.07.2009 and directed to consider the matter afresh after issuing notice to the petitioner-Company, and after providing an opportunity of hearing to all concerned. The personal hearing was conducted on 05.12.2014 and the petitioner-Company, and the land owners concerned, made their submissions in the matter and gave their written statements in support of their claim. Further, a field inspection was also carried out by a senior official of the Industries Department to verify the claims of the contesting sides and the field inspection revealed that the flow of vehicles, checking of the same, etc., were found to be going on smoothly and the land(s) dropped from acquisition, were maintained as coconut grove, garden, etc.,

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without any commercial construction and the petitioner-Company had been able to operate their Industrial Park without the land(s). After considering all the relevant factors and detailed examination of the submissions of the petitioner-Company and the land owners made in their written statements and based on the field inspection and on a perusal of the records relating to the case, it was decided to retain the earlier decision to drop the land acquisition proceedings pertaining to S.Nos.405/3, 405/4 and 405/5 and accordingly, G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016 was issued.

(j) Further, the petitioner-Company misinterpreted the observations made in paragraph 6 of the aforesaid G.O., since in the very next line, the Government had clearly indicated that, this point, however, was not significant enough to reconsider the decision of the Government in G.O.(Ms).No.88, Industries Department, dated 30.07.2009, as already set out in paragraph Nos.5(i), 5(ii) and 5(iv) of G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016.

(k) Moreover, the petitioner-Company wrongly interpreted the order of this Court, dated 04.03.2014 by contending that since G.O.Ms.No.88, Industries Department, dated 30.07.2009 stood set aside by this Court, the Government could not retain the decision taken as per the said G.O. and ought to have taken fresh decision, upon due consideration of the representation made by parties and the petitioner-Company stated that the Government had not taken any fresh decision as directed by this Court on 04.03.2014 in W.A.No.564 of 2010, etc.,

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while passing the impugned order. This Court, by judgment, dated 04.03.2014, while setting aside the G.O., dated 30.07.2009, had directed only to consider the matter afresh, after issuing notice to the petitioner-Company and providing an opportunity of hearing to all concerned and had not issued any specific direction to issue fresh order in favour of the petitioner-Company and pursuant to the direction of this Court, the matter was taken up for fresh consideration after issuing notice to the petitioner-Company and providing an opportunity of personal hearing to all concerned and the submission of the land owners and the petitioner-Company and the records relating to the above matter, besides the field inspection report of a senior official of the Industries Department, various relevant factors connected with the issue, were observed and then only, the aforesaid orders to retain the earlier decision to drop the land acquisition proceedings with regard to S.Nos.405/3, 405/4 and 405/5 were passed. While passing such orders, the Government is deemed to take into consideration the interest of both sides and their consequences and this has been done meticulously by the Government. The petitioner-Company has conveniently forgotten all the aspects and raised frivolous allegations only for personal gain and no public interest is seen in their averments. Since a clear decision had been taken by the Government in the matter after repeated legal wrangles created by the petitioner-Company with subsequent representations, and the same does not warrant any consideration by the first respondent at this stage.

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(l) The remarks of TIDCO and the District Collector, Kancheepuram, were sought on the representations cited by the petitioner. TIDCO, vide its letter dated 11.05.2018, has informed that it has already offered its remarks, i.e. the District Administration can only assess the ground reality and that the Government may consider the request of MWCDL (i.e. petitioner-Company), after getting remarks from the District Collector, Kancheepuram, if deemed necessary and after this, the Government had taken a decision and issued G.O.(Ms).No.106, Industries Department, dated 25.07.2016, which was issued only after examining the facts.

(m) The first respondent that the G.O. reiterating the earlier decision to drop the land acquisition proceedings in respect of S.Nos.405/3, 405/4 and 405/5, is absolutely legal, un-arbitrary and not in violation of the principles of natural justice, as it was passed in pursuant to the direction of this Court, dated 04.03.2014 in W.A.No.564 of 2010 etc., by taking the matter for consideration afresh and giving an opportunity of personal hearing to all concerned, including the petitioner-Company. A field inspection was also carried out by a senior official of the Industries Department to understand and verify the claim of the contesting sides and it was noticed that the flow of vehicles, checking the same, etc., were found to be going on smoothly and the land(s) dropped from the acquisition, are being maintained as coconut grove, garden, etc., without any commercial construction and it was also noted that without these lands, the

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petitioner-Company had been able to operate their Industrial Park. The petitioner-Company has enough land(s) to run the Industrial Park and the available lands are enough to meet their requirements fully. The Government is bound to safeguard the interests of the land-owners also, while acquiring land(s) under the Land Acquisition Act and this alone had been done. The distance factor of the dropped land(s) was alone not the main criterion for marking such a decision. The usage of the lands by the land owners and the necessity of the land(s) for fulfilling the requirements of the petitioner-Company, were also taken into consideration and it was noticed that the lands already acquired for the petitioner-Company, are being maintained for commercial activity and the flow of vehicles, checking of the same, etc., were found to be going on smoothly. Hence, dropping of land acquisition proceedings, was warranted in respect of the land(s).

(n) The reasonings observed by the first respondent are absolutely warranted, considering the interest of the land owners and also the necessity for acquiring the dropped lands by the petitioner-Company. Since the petitioner is having adequate lands to meet their requirements, it was decided to reiterate the earlier decision of dropping the lands from the acquisition proceedings. The ambience factor was also considered in detail while taking decision in the matter. There are adequate extent available in the entry point and it was also noticed that in the available lands, the flow of vehicles, checking of the same, etc., were

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found to be going smoothly without any obstacle and the Company's aspiration to have an administrative block/security arrangements, etc., could be made with the lands already acquired by them and hence, there is no necessity to acquire the lands in question.

(o) The impugned Government Order dated 25.07.2016 is sustainable and the publication of the same in the Tamil Nadu Government Gazette, dated 03.08.2016, deserves to be upheld. Further, though the land acquisition proceedings were undertaken at the cost of the petitioner-Company, the Government cannot act unilaterally and indulge in acquiring the land(s) at the interest of the petitioner-Company. The interest of the land owners had also to be given due consideration. The petitioner-Company is not entitled to get the lands to suit their convenience under the pretext of public purpose, when already sufficient land(s) is/are available with them. According to G.O.Ms.No.630, Industries Department, dated 24.09.1998, initially administrative sanction was accorded for acquisition of lands of an extent of 334.875 hectares (almost 828 acres) under the Land Acquisition Act, 1894, in a few villages of Chengalpattu Taluk, but it has been informed that the Industrial Park of the petitioner-Company had about 1400 acres, which is much above the area for which administrative sanction had been given. Thus, it is clear that the dropping of land acquisition proceedings for a meagre extent of 3.21 acres will not in any way hit the Doctrine of Promissory Estoppel. The dropping of these lands, is not

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in any way detrimental to the project of the petitioner-Company, since the field inspection conducted by a senior official revealed that the flow of vehicles, checking of the same etc., are found to be going on smoothly in the existing entry point. The decision for dropping the subject lands from the land acquisition proceedings, is taken, upon considering the matter afresh, pursuant to the judgment of this Court, dated 04.03.2014 in W.A.No.564 of 2010, etc., since fresh enquiry was conducted with the contesting parties, coupled with the field inspection, all of which revealed the fact that the petitioner-Company is already having enough lands at their disposal and the flow of vehicles, etc., in the entry point of the Industrial Park, is found to be going on smoothly, without inconvenience or hindrance of any kind.

(p) The present acquisition is sustainable in law and facts and it is also in conformity with the Tamil Nadu Acquisition of Lands for Industrial Purposes Act and the Rules made thereunder. The conclusion of the Supreme Court in Singur Case (Civil Appeal No.8438 of 2016, etc., dated 31.08.2016) (reported in 2017 (11) SCC 601 - Kedar Nath Yadav Vs. State of West Bengal) cited by the petitioner-Company in the grounds of the Writ Petition, cannot be applied to the subject land(s), since the petitioner-Company is already having enough lands to meet their requirements at the entry point and the petitioner-Company is running the industrial park for the last 14 years. The petitioner-Company is repeatedly misinterpreting the orders of this Court, dated 04.03.2014 made in

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W.A.No.564 of 2010, etc., as if this Court had issued specific direction to issue order afresh favouring the petitioner-Company. This Court did not issue any such direction favouring the petitioner-Company and the Government Order issued by the respondents cannot be alleged to be against the direction of the Division Bench of this Court, dated 04.03.2014 in W.A.No.564 of 2010, etc. The Government Order issued does not suffer from colourable exercise of power, since it was issued only in accordance with law, strictly following the direction of this Court and it does not infringe the fundamental rights of the petitioner-Company under any circumstances.

(q) Though as per G.O.Ms.No.630, Industries Department, dated 24.09.1998, administrative sanction was accorded for acquisition of lands of an extent of 334.875 hectares (about 828 acres), under the Land Acquisition Act, in certain villages of Chengalpattu Taluk, it has been informed that the Industrial Park of the petitioner-Company has acquired about 1400 acres so far, which is much above the area for which administrative sanction was given. So far as the dropped lands are concerned, considering the vast extent acquired by the petitioner-Company, it is only meagre extent of 3.21 acres and field inspection by a senior official of the Industries Department revealed that the lands are maintained as coconut grove, garden etc., without any commercial construction. The petitioner-Company has been able to operate their Industrial Park all along these years without these lands. The land acquisition proceedings cannot be

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continued only for the sake of convenience of the petitioner-Company, as there is no necessity for them to utilise the dropped lands, in view of existing lands in the entry point and in view of the point that in dropping of the lands, no public interest will suffer, since the public at large is in no way connected with the convenient factors raised by the petitioner-Company. As of now, the flow of vehicles, checking of the same, etc., are found to be going on smoothly in the existing entry point and the apprehension of the traffic congestion of National Highways by the petitioner-Company, is not to be accepted.

(r) As per G.O.Ms.No.630, Industries Department, dated 24.09.1998, administrative sanction was accorded for acquisition of an extent of 334.875 hectares (about 828 acres) of land in favour of the petitioner-Company in certain villages, including Chettipunniam Village, Chengalpattu Taluk and the petitioner-Company has now about 1400 acres including the lands purchased by them through private negotiation. The Government has fully honoured their commitment in acquiring the lands and as far as the extent of 3.21 acres in S.Nos.405/3, 405/4 and 405/5 are concerned, though the land acquisition proceedings were initiated, the land owners repeatedly approached this Court and obtained order of stay of dispossession. Further, this Court had also quashed the declaration issued under Section 6 in respect of the subject lands and issued directions to make enquiry under Section 5-A of the Land Acquisition Act afresh. During the course of enquiry, the second respondent recommended to grant

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exemption for these lands from land acquisition on the ground that the lands for which exemption is required, are not contiguous and situated as small pieces not fit for the project work. The second respondent also recommended that the requisitioning body is utilising 100 feet road with the permission of the Forest Department and if exemption is given to the above lands from acquisition, the project plan would not be affected. After carefully considering the report of the second respondent, the Government had issued orders exempting the subject lands from land acquisition, vide G.O.(Ms).No.88, Industries Department, dated 30.07.2009. Hence, the petitioner approached this Court, and this Court, by order dated 04.03.2014, passed in Writ Appeal No.564 of 2010, etc., set aside the said G.O., dated 30.07.2009 and directed to consider the matter afresh, after issuing notice to the petitioner-Company and providing an opportunity of hearing to all concerned, based on which, personal hearing was conducted on 05.12.2014, in which the petitioner and respondents 4 to 6 made their submissions, besides submitting their written statement in support of their claim.

(s) Apart from the personal hearing, a senior official of the Industries Department also carried out field inspection to understand and verify the claim of contesting sides and during inspection, it was noticed that the flow of vehicles, checking of the same, etc., were found to be going smoothly. The lands dropped from acquisition, are being maintained as coconut grove, garden, etc., without any commercial construction. Without these lands, the petitioner-



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Company has been able to operate their Industrial Park for the past several years. The Industrial Park of the petitioner-Company has about 1400 acres, which is much above the area for which administrative sanction has been given. The petitioner-Company is expanding well through acquisition of lands as well as through private negotiation and thus, they have enough lands for creating administrative office, security, parking and other such amenities as may be required by them. Further, after considering all the relevant factors and on a detailed examination of the submission of the petitioner-Company and the land owners made in their written statements and based on the field inspection and on a perusal of the entire records relating to the subject matter, it was decided to retain the earlier decision to drop the land acquisition proceedings with regard to S.Nos.405/3, 405/4 and 405/5 and orders were issued accordingly. Hence, the impugned order of the first respondent is not liable to be quashed on any ground, since no public interest can be attributed to the writ petitioner and it has been filed for the personal gain of the petitioner-Company.

5. Learned Senior Counsel appearing for the petitioner-Company submitted that the Government has issued G.O.Ms.No.150, Industries Department, dated 30.11.2006, declaring that the land(s) in question are required for "Industrial Purpose". Undoubtedly, the entry gate and security complex are part of management of the industrial estate, which is an 'industrial

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purpose' under Section 2(e) of the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. Thereafter, the Government dropped the acquisition process, vide G.O.Ms.No.88, Industries (MIE-1) Department, dated 03.07.2009. This G.O. was set aside by a Division Bench of this Court in Writ Appeal in W.A.No.564 of 2010, etc., by judgment dated 04.03.2014 and Paragraph 21 of the judgment of the said Writ Appeal, is extracted below:

"21. The Government having taken up such a contention regarding the bona fide requirement of the land in question, should have given reasons atleast in a brief manner as to how they have arrived at a satisfaction that the land is no more required for the purpose. Since the acquisition in question was initiated at the instance of the appellant way back on 1 September 1999 and thereafter by issuing notification under Section 4(1) of the Industrial Purposes Act, necessarily, notice should have been given to the appellant to state its views as to whether the land is still necessary for the project. The appellant is the best person to say as to whether the land is no more required for the purpose of the Act. It is true that the provision gives authority to the Government to decide as to whether the land is any more required for the purpose of the Act. The Government cannot decide this issue without any material. It is only in the said context, the question of



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notice to the appellant would assume significance. The Government is not bound to accept the views expressed by the appellant, in case there are materials to suggest that the land is no more necessary for the purpose for which it was acquired. However, that is not the case here. The Government took unilateral action to withdraw the land from acquisition on receipt of representation from land owners."

6. The learned Senior Counsel further contended that, inspite of the above judgment of the Division Bench, and inspite of realising that the entry to NH.45 will be narrow, the Government still dropped the acquisition. In view of the fact that the proceedings had already travelled up to the stage of Section 4(2) of the Industrial Purposes Act, the case was no longer at the stage of decision to acquire, but the power, if any, was only to withdraw from acquisition under the proviso to Section 4 of the Industrial Purposes Act. The impugned order does not satisfy the requirements of Proviso to Section 4, but rather proceeds on the basis that the case is still at the stage of Section 3(3) of the Industrial Purposes Act.

7. The learned Senior Counsel further contended that the impugned G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016, drops the



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acquisition with respect to S.Nos.405/3 and 405/5 situated at Chettipunniyam Village. The relevant paragraph of the said G.O.(Ms).No.106 reads as follows:

"6. With regard to S.Nos.405/3, 405/4 and 405/5, even though M/s.MWCDL faces some kind of restrictions in the entrance to their industrial park, the lands in question are at least 2.5 Kms away from the Industrial Park area and even at present, the lands are having orchard with fruit and other trees with storage and other facilities like motor pump rooms etc. As rightly mentioned, the individual companies inside the Industrial park have their own security arrangements and separate security arrangements may not be necessary at the entrance abutting the National Highways since a large number of other dwellings are in between National Highways and main area of the Industrial Park. Similarly, other requirements like administrative office, etc., are available nearer to the Industrial Park and may not be required abutting the National Highways. It is also seen that due to the dropping of the Land Acquisition Proceedings in Survey Nos.405/3, 405/4 and 405/5, the approach to the National Highways has taken a narrow turn which, if it could be avoided, would present a better ambience to the entrance of the Industrial Park from the National Highways. This point, however, is not significant enough to reconsider the decision of Government vide G.O.Ms.No.88, Industries, dated: 30.07.2009 as already



set out in paras 5(i), 5(ii) and 5(iv). The Company may, however, explore other options to purchase these lands directly from the land owners."

8. The learned Senior Counsel further submitted that the impugned G.O. recognised that the land(s) are needed for the purposes of the Industrial Purposes Act., i.e. Industrial Park, inasmuch as it records *"it is also seen that due to the dropping of the Land Acquisition Proceedings in Survey Nos.405/3, 405/4 and 405/5, the approach to the National Highways has taken a narrow turn which, if it could be avoided."* Thus, the Government found that "Industrial Purpose" still existed. After underscoring the need for the lands for the Industrial Park, without assigning any reasons for, the impugned G.O. proceeds to drop the acquisition. However, the acquisition had travelled beyond Section 3(1) {vide G.O.Ms.No.150, Industries, dated 30.11.2006} and had moved to Section 4(1) and 4(2) [vide Notice dated 02.02.2007]. Therefore, the question of "dropping" the acquisition no longer arose. The acquisition is complete. By virtue of Section 4(1) of the Industrial Purposes Act, 1997, the subject land(s) stand vested absolutely in the Government. Further, under proviso to Section 4(1), only in circumstances where before the possession is taken, the Government is of the opinion that "the land is no more required for the purpose



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of this Act", the Government may withdraw from acquisition. The words "purposes of the Act" become relevant and this has to be read with Section 2(e) which reads as under:

"Section 2: Definitions:--In this Act, unless the context otherwise requires--

... ..
(e) "industrial purpose" includes the starting of a new industry, expansion of an existing industry, the development of an industrial area and establishment and management of an industrial estate."

9. According to the learned Senior Counsel, the purpose of the Industrial Purpose Act of 1997 being defined, the scope of withdrawal from acquisition is limited only to the Government's opinion that the purpose is no longer satisfied.

10. The learned Senior Counsel further contended that, from a bare reading of the reasons provided in G.O.(Ms).No.106, Industries Department, dated 25.07.2016, it is clear that the question as to whether the subject land(s) is/are needed for "industrial purpose" is not at all disputed. In fact, the words in paragraph 6 of the impugned G.O., "*The Company may, however, explore other options to purchase these lands directly from the land owners*", make it clear that the Government continues to see the "industrial purpose" to which these land(s) can be put by the petitioner.

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11. The learned Senior Counsel further stated that under the Industrial Purposes Act of 1997, the State Legislature confined to the scope of power of the Government to drop acquisition only if it satisfied two criteria:

- (a) the possession of the land had not yet been taken; and
- (b) if in the opinion of the Government, the land(s) were no longer required for the purpose of the Industrial Purposes Act.

12. Thus, according to the learned Senior Counsel, in the present case, the land(s) had already vested absolutely in the Government and the Government had, by notice, dated 02.02.2007, under Section 4(2) of the Industrial Purposes Act of 1997 issued to respondents 4 to 6, called upon them to deliver the possession of the property(ies) in question.

13. Further, according to the learned Senior Counsel, the Government, at every stage, was satisfied regarding the need for the land(s) being "industrial". The State Government, at the stage of issuance of notice under Section 3(2) and Section 3(1) of the Industrial Purposes Act of 1997, was satisfied that the land(s) were required for establishment of an auto-ancillary industrial park.

14. Moreover, as submitted by the learned Senior Counsel appearing for the petitioner-Company, even in the impugned G.O., the reason stated for dropping of acquisition is not in line with the powers of the Government under proviso to Section 4(1) of the said Industrial Purposes Act of 1997. In fact, the



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Government admitted that the land(s) could be used and are required for the 'industrial park'. The impugned G.O. attempts to balance the rights of respondents 4 to 6 and the petitioner, which is outside the scope and ambit of the statute.

15. The learned Senior Counsel for the petitioner, while drawing the attention of this Court to the scope of the remand order passed in Writ Appeal No.564 of 2010, etc., by judgment dated 04.03.2014, submitted that on the earlier occasion, the acquisition proceedings were dropped and it was challenged. The original G.O.(Ms).No.88, Industries Department, dated 30.07.2009, came to be challenged by the petitioner-Company and this went up to the Writ Appeal and the Division Bench of this Court, vide common judgment dated 04.03.2014, passed in W.A.No.564 of 2010 (while disposing it along with W.P.Nos.20492 of 2009, 1031 of 2012 and 1385 of 2014), recognised the need and requirement of the petitioner, holding as follows in paragraphs 21, 29, 30 and 31:

Factual analysis:

.. ..
"21. The Government having taken up such a contention regarding the bona fide requirement of the land in question, should have given reasons atleast in a brief manner as to how they have arrived at a satisfaction that the land is no more required for the purpose. Since the acquisition in question was initiated at the purpose. Since the acquisition in question was initiated at the instance of the appellant way back on 1 September 1999 and

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thereafter by issuing notification under Section 4(1) of the Industrial Purposes Act, necessarily, notice should have been given to the appellant to state its views as to whether the land is still necessary for the project. The appellant is the best person to say as to whether the land is no more required for the purpose of the Act. It is true that the provision gives authority to the Government to decide as to whether the land is any more required for the purposes of the Act. The Government cannot decide this issue without any material. It is only in the said context, the question of notice to the appellant would assume significance. The Government is not bound to accept the views expressed by the appellant, in case there are materials to suggest that the land is no more necessary for the purpose for which it was acquired. However, that is not the case here. The Government took unilateral action to withdraw the land from acquisition on receipt of representation from land owners."

Conclusion:

29. There is no dispute that it is for the Government to decide as to whether the land is no more required for the purpose of the Industrial Purposes Act. The Government have got the authority to withdraw the land from acquisition in case possession is not taken. However, even for taking a decision to exclude the land from acquisition, there must be sufficient materials before the Government. The Government should prove atleast by producing the file that the land is no more required for the purpose of the Act. The impugned order or the file produced by the Government does not contain any material to arrive at a satisfaction as to whether the subject land is no more required for the purpose of Industrial Purposes Act. We are, therefore, of the view that the Government was not correct in withdrawing the land from acquisition without issuing notice to the appellant and indicating reasons. In view of the finding given above, we set aside the order passed by



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the learned Single Judge in W.P.No.20424 of 2009.

Disposition:

30. In the result, the impugned Government Order in G.O.Ms.No.88, Industries (MIE 1) Department dated 30 July 2009 is set aside and the matter is remitted to the first respondent for fresh consideration. The first respondent is directed to consider the matter afresh after issuing notice to the appellant and providing an opportunity of hearing to all concerned.

31. In the upshot, we allow the writ appeal and the writ petitions. Consequently, the connected MPs are closed. No costs."

16. Thus, from the above extracted portions of the common judgment rendered in W.A.No.564 of 2010, etc., it is clear that the scope of the proceedings, is confined to Proviso to Section 4 of the Industrial Purposes Act of 1997.

17. However, according to the learned Senior Counsel for the petitioner, after recognising the need of the land for the purpose of the Industrial Purposes Act of 1997, it proceeds to undertake a comparative analysis between an access road, which is the life-line for the Industrial Park with a fruit-orchard.

18. According to the learned Senior Counsel for the petitioner, the last line of the impugned order states that the Government "sees no reason to differ" from G.O.Ms.No.88, Industries (MIE-1) Department, dated 30.07.2009, had been struck-down by the Division Bench of this Court in Writ Appeal No.564 of 2010

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and W.P.Nos.20492 of 2009, 1031 of 2012 and 1385 of 2012, dated 04.03.2014 (reported in 2014 (2) CTC 532 - Mahindra World City Developers Limited Vs. State of Tamil Nadu).

19. The learned Senior Counsel also submitted that the above approach by the Government is totally alien to the scope of the remand order and the mandate of proviso to Section 4 of the Industrial Purposes Act of 1997. The Government is required to adjudicate as to whether the land(s) would be required for 'Industrial Purpose' or not.

20. It is the further submission of the learned Senior Counsel for the petitioner that the petitioner-Company submitted their detailed representation, dated 07.12.2014 to the Principal Secretary to Government, detailing and emphasising on the need for acquisition of the land(s). Moreover, the petitioner stated the requirement of the industrial units within the Industrial Park as well. In order to demonstrate the need for acquisition, the petitioner-Company had also filed two volumes of supporting the documents along with its representation. These documents detailed the need for the said land(s) for the 'Industrial Park'. However, the documents find no reference in the impugned G.O., which failed to consider or even pursue the documents submitted by the petitioner. The documents set out the clear need of the "Industrial Park" and this is violation of the procedures laid down under Rule 6 of the Tamil Nadu Acquisition of Land for Industrial Purposes Rules, 2001.

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21. The learned Senior Counsel for the petitioner further contended that the single entrance to the petitioner-Company's "Industrial Park" is on the Grand Southern Trunk Road (i.e. GST Road) (NH.45 - which is 75 Mts. wide Road, having 4 lanes on either side). This is a National Highway and connects Chennai with Trichy). Further, the Central Avenue Road directly links the GST Road, wherein at the juncture, a Temple and a bus terminus are located. Due to the presence of the Temple and also the bus terminus, there is huge movement of people, vehicles and traffic in this area and juncture. The juncture not only witnesses heavy vehicle movement, including transport trailer trucks, goods trucks, vehicles, etc., but also lot of local traffic from the residential areas due to the presence of Temple and the bus terminus. This is a precarious situation and can lead to hazardous consequences.

22. The learned Senior Counsel for the petitioner further stated that, more than 70,000 people are directly and indirectly employed in the industries situated within the 'Industrial Park', which has many large multi-national manufacturing companies, which manufacture and export larger automobile parts, solar panels, turbine fan blades, wind turbine funnel, etc. As a result, large and heavy vehicle movement is regular in the Industrial Park and the roads and entrance, had to be equipped to handle the movement of the specialised large-vehicles. These manufacturing industries need clear and un-obstructed area for vehicular movement for material transport. The current access road is not conducive to

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appropriate transport and movement of these materials. This leads to traffic build-up on the Highway which can be dangerous to users.

23. Learned Senior Counsel for the petitioner further contended that the turning radius is large for heavy weight industrial vehicles and the road width and access have to be designed, keeping in mind the special requirements. Therefore, 45 mts. road for entrance at the precarious location, is highly insufficient. Further, clear and cogent reasons are set out in the 2008 Wilbur Smith Report, and this has not even been referred to in the impugned order.

24. Learned Senior Counsel for the petitioner lastly contended that the impugned G.O. fails to consider the special requirements for the Industrial Park and over-simplifies the need by describing it as "better ambience to the entrance of the Industrial Park". In support of all his submissions, learned Senior Counsel appearing for the writ petitioner/Company relied on a decision of the Supreme Court reported in 1978 (1) SCC 405 (Mohinder Singh Gill Vs. Chief Election Commissioner).

25. Learned Additional Government Pleader appearing for respondents 1 to 3 submitted that, in the common judgment dated 04.03.2014 rendered in Writ Appeal in W.A.No.564 of 2010 etc., a Division Bench of this Court, while setting aside G.O.Ms.No.88, Industries Department, dated 30.07.2009, remitted the matter back to the first respondent for fresh consideration and also gave a direction to the first respondent/Government to consider the matter afresh, after

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issuing notice to the appellant therein (petitioner herein) and providing an opportunity of hearing to all concerned.

26. Learned Additional Government Pleader further contended that though as per G.O.Ms.No.630, Industries Department, dated 24.09.1998, the administrative sanction was accorded for acquisition of land(s) of an extent of 334.875 hectares (about 828 acres) under the Land Acquisition Act, 1894, in certain villages of Chengalpattu Taluk, it has been informed that the industrial park of the petitioner-Company had acquired about 1400 acres so far, which is much above the area for which the administrative sanction was given. So far as dropping of the land(s) is concerned, considering the vast extent of land(s) acquired by the petitioner-Company, it is only a meagre extent of 3.21 acres of land and field inspection by the senior officials of the Industries Department, it reveals that the land(s) are mentioned as coconut grove and garden without any commercial construction. The petitioner-Company is able to operate the "Industrial Park" all along these years, without the subject land(s) of 3.21 acres. The land acquisition proceedings cannot be continued only for the sake of the convenience of the petitioner-Company, as there is necessity for them to utilise the dropped land(s), in view of the existing lands in the entry point and in view of the same, no public interest will suffer, since the public at large is in no way connected with the convenient factors raised by the petitioner-Company. As of now, the flow of vehicles, checking of the same, etc., are found to be going on

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smoothly in the existing entry point and the apprehension of the traffic congestion of National Highways by the petitioner-Company, may not be accepted.

27. Learned Additional Government Pleader further submitted that after setting aside G.O.Ms.No.88, Industries Department, dated 30.07.2009, the Government has carefully considered the matter after giving opportunity to both parties and found that the earlier G.O. regarding the dropping of the land acquisition of the subject land(s) of 3.21 acres, holds good and therefore, the impugned G.O.Ms.No.106, Industries Department, dated 25.07.2016, had been passed. He further submitted that there is no merit in the present Writ Petition and the respondents have duly complied with the directions issued in the Division Bench judgment in W.A.No.564 of 2010, etc., dated 04.03.2014 and there is no deviation and therefore, the Writ Petition is liable to be dismissed. In support of all his submissions, learned Additional Government Pleader relied on a decision of the Honourable Supreme Court reported in 1988 (1) SCC 50 (Special Land Acquisition Officer, Bombay and others Vs. Godrej and Boyce).

28. Learned Senior Counsel for respondents 4 to 6 submitted that the petitioner-Company has access through alternative way and they are using that way and they have obtained permission from the Reserve Forest, which paved the way to the Industrial Park and the subject land(s) is/are no more required for establishing the administrative office, etc. Though the Government has

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passed G.O.Ms.No.630, Industries Department, dated 24.09.1998, administrative sanction was accorded for acquisition of an extent of 828 acres of land(s) in favour of the petitioner-Company and also certain villages including Chettipuniyam Village, Chengalpattu Taluk, and the petitioner-Company has the lands over and above the extent through private negotiation. Now, in respect of the subject land(s) of 3.21 acres of land(s) in S.Nos.405/3, 405/4 and 405/5, land acquisition proceedings were initiated and the land owners have repeatedly approached this Court and obtained an order of stay of dispossession and the Court also quashed the Declaration under Section 6 of the old Land Acquisition Act of 1894, in respect of the subject land(s) and issued direction to conduct enquiry under Section 5-A of the old Land Acquisition Act of 1894, afresh. During the course of enquiry, the second respondent recommended exemption from acquisition from the land acquisition on the ground that the exempted land(s) which are acquired or not, are not required for fulfilment of the project, since the subject land(s) is only a small piece and not fit for the project. The second respondent also recommended that the acquisitioning body is utilising 100 feet road with the permission of the Forest Department, and if the exemption is given to the above land(s) from acquisition, the project plan would not be affected. After carefully considering the said report of the second respondent, the Government had issued orders, exempting the subject land(s) from acquisition, in G.O.Ms.No.88, Industries Department, dated 30.07.2009. Therefore, the

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petitioner-Company approached this Court and this Court, by judgment dated 04.03.2014, in W.A.No.564 of 2010, etc., set aside the above said G.O., dated 30.07.2009 and directed to consider the matter afresh, after issuing notice to the petitioner-Company and provide opportunity of hearing to the respondents, based on which personal hearing was conducted on 05.12.2014, in which the petitioner-Company and the respondents 4 to 6 made their submissions, besides submitting their written submissions in support of their claim.

29. Apart from the personal hearing, the senior officials of the Industries Department carried out a field inspection to understand and verify the claim of the contesting sides and during inspection, it was noticed that the flow of vehicles, checking of the same, etc., were found to be going smoothly. The land(s) dropped from acquisition are being maintained as coconut grove, garden, etc., without any commercial construction. Without these land(s), the petitioner-Company is able to operate their "Industrial Park" for the past several years.

30. Therefore, according to the learned Senior Counsel for respondents 4 to 6, the Government has considered all the facts and had rightly exempted the subject land(s) from acquisition, in G.O.Ms.No.106, Industries Department, dated 25.07.2016 and published in the Tamil Nadu Gazette, dated 30.08.2016, since the land(s) are not required for which the petitioner-Company sought for earlier. There is no merit in this Writ Petition and prayed that the same may be

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dismissed.

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31. In support of all his submissions, the learned Senior Counsel appearing for respondents 4 to 6, relied on the following judgments:

(i) 2001 (6) SCC 748 (Union of India Vs. Shatabadi Trading and Investment Pvt. Ltd);

(ii) 2019 (10) SCC 738 (Municipal Council, Neemuch Vs. Mahadeo Real Estate) and

(iii) ILR 1991 Karnataka 2341 (Karnataka High Court-Division Bench) (Karnataka Power Corporation Employees' Co-operative Housing Society Ltd. Vs. State of Karnataka).

32. By way of reply, learned Senior Counsel for the petitioner-Company submitted that respondents 4 to 6, during the course of their arguments, stressed on the words "*no more required*" in proviso to Section 4(1) of the Industrial Purposes Act of 1997 and attempted to read into the impugned order, and the reasoning that does not find place in it. The learned Senior Counsel thus submitted that the State Government in the impugned order, agrees that the land(s) is/are required for the purpose of entry to the 'Industrial Park', however, goes on to weigh the interests of the parties, which is not contemplated under the provisions and which the officer is not contemplated under the provisions and which the officer is not entitled to do at that stage. Therefore, there is no

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force in that submission made by the learned counsel for respondents 4 to 6.

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33. Heard both sides and perused the materials available on record.

34. Admittedly, the petitioner-Company has developed an "Industrial Park" near Chengalpattu, known as Mahindra World City. The Government has initiated land acquisition proceedings under the Land Acquisition Act, 1894, at the instance of the petitioner in 1999 in respect of the subject lan(s) of 3.21 acres, which are the only lands situated in the entrance to the Park and the Government also issued administrative sanction, vide G.O.Ms.No.630, Industries Department, dated 24.09.1998. Initially, the Government has also initiated necessary proceedings under the Land Acquisition Act and the Notification under Sections 4(1) and the Declaration under Section 6 of the Land Acquisition Act, 1894 and the same were also published for acquisition of the lands in Chettipuniyam Village, which covered the subject land(s) also. Thereafter, respondents 4 to 6 herein challenged the said Notification by filing W.P.Nos.18114 to 18116 of 2000 and this Court, on 31.08.2001, quashed the Declaration under Section 6 of the Act alone in respect of the subject land(s) and issued direction to conduct enquiry under Section 5-A of the Act afresh and as such, the enquiry under Section 5-A was conducted by the second respondent on 09.11.2001, besides continuing the land acquisition proceedings under the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997. However, the respondents 4 to 6 have again approached this Court by filing W.P.Nos.6010 to

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6012 of 2007 against the notice in Form-E under Section 4(2) of the said Act of 1997 and obtained initially an interim order.

35. Further, the second respondent recommended that if exemption to the above land(s) are given from acquisition, the project plan will not be affected, since there is already an approach road to the petitioner-Company and the land(s) are surrounded by Reserve Forest.

36. Considering the recommendation of the second respondent, the Government also issued G.O.Ms.No.88, Industries Department, dated 30.07.2009, granting exemption from acquisition in respect of the subject land(s). Since there is dispute, the petitioner-Company has been utilising the forest land for reaching the petitioner's land(s). The said G.O.Ms.No.88 was challenged before this Court and by common judgment, dated 04.03.2014 in W.A.No.564 of 2010 and W.P.Nos.20492 of 2009, 1031 of 2012 and 1385 of 2012, a Division Bench of this Court set aside the said G.O.Ms.No.88 and directed to consider the matter afresh, after issuing notice to the petitioner-Company and also the land owners, namely respondents 4 to 6 herein. After giving notice to both parties, now the first respondent has passed the impugned order in G.O.Ms.No.106, against which, the writ petitioner-Company has filed the present Writ Petition.

37. Learned Senior Counsel for the petitioner-Company submitted elaborate arguments and also filed written arguments, in which, it is clearly

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stated that originally, the Government was satisfied with the requirements of the petitioner and issued Notification under Sections 4(1) and 6 of the Central Land Acquisition Act of 1894, and the same were also published in Government Gazette. Though respondents 4 to 6 challenged the above said Notifications, this Court, while quashing the Notification (Declaration) under Section 6, which was published by the Government, gave a direction to conduct fresh enquiry after giving an opportunity of hearing to both petitioner and the respondents.

38. Further, this Court in W.P.Nos.18114 to 18116 of 2000, by order dated 31.08.2001, had quashed the Declaration issued under Section 6 of the said Central Act in respect of the subject land(s) and issued directions to make enquiry under Section 5-A of the said Act afresh and as such, the enquiry under Section 5-A was conducted on 09.11.2001 and the land acquisition proceedings continued under the Industrial Purposes Act, had come into force. The official respondents have also sent the notice in Form-E under Section 4(2) of the Industrial Purposes Act. The respondents 4 to 6 have again approached this Court by filing Writ Petitions in W.P.Nos.6010 to 6012 and 7761 to 7763 of 2007, against the said notice issued in Form-E under Section 4(2) of the Industrial Purposes Act and they have initially obtained interim order.

39. In the meanwhile, the second respondent, after conducting enquiry under Section 5-A of the Land Acquisition Act, 1894, on 09.11.2001, made recommendation to the Government that, if exemption to the subject land(s) is

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given from acquisition, the project plan of the petitioner-Company will not be affected for the reason that there is approach Road available to the petitioner-Company to reach the land(s), which are surrounded by the Reserve Forest. Based on the recommendation given by the second respondent, the Government also issued orders to drop the land acquisition proceedings for the subject land(s) and issued G.O.(Ms).No.88, Industries (MIE.1) Department, dated 30.07.2009. Challenging the same, the petitioner-Company filed Writ Petition in W.P.Nos.20424 of 2009. The Division Bench of this Court, while disposing of Writ Appeal No.564 of 2010 (against the order dated 29.01.2010 passed in W.P.No.20492 of 2009 challenging G.O.Ms.No.88) along with W.P.Nos.1031 and 1385 of 2012, set aside the said G.O.Ms.No.88 and directed the authorities to issue fresh notice to the petitioner, based on which, the respondent(s) conducted enquiry. Accordingly, the first respondent/Industries Department, conducted enquiry on 05.12.2014 and passed the impugned G.O.Ms.No.106, dated 25.07.2016, against which, the present Writ Petition has been filed.

40. Further, a Division Bench of this Court, by judgment dated 04.03.2014, passed in W.A.No.564 of 2010, etc., reported in 2014 (2) CTC 532 (Mahindra World City Developers Limited, Vs. State of Tamil Nadu), observed as follows:

"Conclusion:

29. There is no dispute that it is for the Government to decide as to whether the land is no more required for the purpose of the Industrial



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Purposes Act. The Government have got the authority to withdraw the land from acquisition in case possession is not taken. However, even for taking a decision to exclude the land from acquisition, there must be sufficient materials before the Government. The Government should prove atleast by producing the file that the land is no more required for the purpose of the Act. The impugned Order or the file produced by the Government does not contain any material to arrive at a satisfaction as to whether the subject land is no more required for the purpose of Industrial Purposes Act. We are, therefore, of the view that the Government was not correct in withdrawing the land from acquisition without issuing Notice to the Appellant and indicating reasons In view of the finding given above, we set aside the order passed by the learned Single Judge in W.P.No.20424 of 2009.

Disposition:

30. In the result, the impugned Government Order in G.O.Ms.No.88, Industries (MIE.1) Department, dated 30th July 2009 is set aside and the matter is remitted to the First Respondent for fresh consideration. The First Respondent is directed to consider the matter afresh after issuing Notice to the Appellant and providing an opportunity of hearing to all concerned.



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31. In the upshot, we allow the Writ Appeal and the Writ Petitions. Consequently, the connected MPs are closed. No costs."

41. Instead of passing the order based on the materials available on record, the second respondent-District Collector, once again reiterated the earlier order with some minor additions and the Government earlier dropped the acquisition in G.O.(Ms).No.88, Industries (MIE.1) Department, dated 30.07.2009. It is to be noted that this G.O.(Ms).No.88 was set aside by the Division Bench in W.A.No.564 of 2010, etc., which was disposed of by common judgment dated 04.03.2014, along with the connected writ petitions, as discussed herein-above.

42. Thereafter, enquiry was conducted and the impugned G.O.(Ms).No.106, Industries Department, dated 25.07.2016, had been passed, and inspite of realising that the entry to N.H.45 will be narrow, the Government still dropped the acquisition of the land(s) under dispute. Thus, as observed by the Division Bench in the said batch of cases, it is clear that the Government cannot decide the issue without any material and it is only in the said context, the question of notice to the petitioner/Company would assume significance. Further, the Division Bench also observed that the Government is not bound to accept the views expressed by the petitioner-Company (appellant in the said Writ Appeal). It is clear that the Government took unilateral action to withdraw



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the land(s) from acquisition on receipt of representation from the land owners, as observed by the Division Bench. In this regard, it is useful to refer the observations made by the Division Bench in W.A.No.564 of 2010, etc., in the judgment dated 04.03.2014:

"21. The Government having taken up such a contention regarding the *bona fide* requirement of the land in question, should have given reasons atleast in a brief manner as to how they have arrived at a satisfaction that the land is no more required for the purpose. Since the acquisition in question was initiated at the instance of the Appellant way back on 1st September 1999 and thereafter, by issuing Notification under Section 4(1) of the Industrial Purposes Act, necessarily, notice should have been given to the appellant to state its views as to whether the land is still necessary for the project. The Appellant is the best person to say as to whether the land is no more required for the purpose of the Act. It is true that the provision gives authority to the Government to decide as to whether the land is any more required for the purposes of the Act. The Government cannot decide this issue without any material. It is only in the said context, the question of notice to the Appellant would assume significance. The Government is not bound to accept the views expressed by the Appellant, in case there are materials to suggest that the land is no more necessary for the purpose for which it was acquired. However, that is not the case here. The Government took unilateral action to withdraw the land from acquisition on receipt of representation from land owners".

43. As highlighted by the learned Senior Counsel appearing for the



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petitioner-Company, by drawing the attention of this Court to the relevant observations made in the impugned G.O.(Ms).No.106, Industries Department, dated 25.07.2016, it is useful to quoted the wordings, "...The Company may however explore other options to purchase these lands directly from the land owners."

44. Though from the counter affidavit filed by the first respondent/Government, it is clear that dropping of the land acquisition proceedings themselves, by the authorities, in respect of the subject land(s), will not in any way be detrimental to the project of the petitioner-Company, since already field inspection was conducted by the senior officials. But, the respondents/State had not produced any worth-mentioning materials to show that they had appointed any expert body/Committee and only based on the expert body/committee, the Government has taken a decision that the land(s) is/are not required for industrial purpose. Though the Government had stated that it is only a meagre extent of 3.21 acres being the subject land(s), the field inspection conducted by the senior officials of the Industries Department, reveals that the land(s) are maintained as coconut-grove, garden, etc., and without any commercial construction, the petitioner-Company is also able to operate their "Industrial Park" all along for six years without the land(s) in question.

45. Even though the land owners/respondents 4 to 6 herein have challenged the land acquisition proceedings before this Court in W.P.Nos.18114

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to 18116 of 2000, this Court, by order dated 31.08.2001, allowed those Writ Petitions, quashing G.O.Ms.No.334, Industries Department, dated 20.09.2000 issued under Section 6 of the Land Acquisition Act of 1894, being the Declaration, but this Court has not quashed the Notification issued under Section 4(1) of the Land Acquisition Act, 1894. Thus, it is clear that, though this Court is satisfied with the reasons for acquisition, but as pointed out by the learned Senior Counsel appearing for the petitioner-Company, the official respondents have filed counter affidavit in the earlier Writ Petitions stating that initially administrative sanction was accorded for acquisition of the land(s) and on being satisfied with the reasons, the Court also had accepted the same, and it had not quashed the Notification issued under Section 4(1) of the Act of 1894 and the Court had only quashed the Declaration under Section 6 of the Act of 1894 and gave an opportunity to them to proceed further. Further, when the acquisition proceedings proceeded as the provisions of the Industrial Purposes Act of 1997, the private respondents herein filed W.P.Nos.6010 to 6012 and 7761 to 7763 of 2007 and they had earlier obtained an order of interim stay of dispossession. Therefore, from Section 6 Declaration issued, it appears that the private respondents 4 to 6 approached this Court and subsequently, the petitioner-Company has also approached this Court and taking of possession has already been stayed by this Court, but by the interim order. Since the petitioner has invested huge amount and also established the "Industrial Park" and approached

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the Government and the Government also issued necessary proceedings and obtained necessary permission from various Departments with certain conditions and they have also laid the Road which has also been used and therefore, the contention of the private respondents and official respondents that the petitioner-Company is running 'Industrial Park' for the past 14 years, without the aid of the subject land(s), is not acceptable.

46. Further, the official respondents have also not constituted Expert Committee and not obtained any report from the Expert Committee and simply they have stated that a senior official of the Industries Department had also carried out field inspection and found that the subject land(s) is/are not utilised for commercial purpose and it was used only as a coconut-grove, garden etc. Initially, the Government was satisfied with the requirements of the petitioner-Company and also issued the Notification under Section 4(1), which was challenged before the Court, which was not quashed by the Court and only the Notification under Section 6 alone was quashed.

47. Now, the only question that has to be considered in this Writ Petition is as to whether the decision taken by the official respondents 1 to 3, in dropping the subject land(s) by granting exemption of the subject land(s) for acquisition, is acceptable and the reasons stated for granting exemption is based on the impugned G.O.Ms.No.106, is also acceptable and also as to whether, at present, the subject land(s) is/are not required for the petitioner-Company, is correct.

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48. It is to be noted that Section 4(1) Notification was not quashed by this Court in the earlier round of litigation. As already stated, the private respondents have also not challenged the same. Further, the Declaration under Section 6 was alone quashed.

49. Admittedly, the subject land(s) is/are situated in the entry point of GST Road and considering the fact that now a part of Koyambedu Bus Stand has also been shifted to Kilambakkam, which is the main access to the GST Road, and that the GST Road has also been expanded. Further, from the impugned G.O.Ms.No.106, it is clear as stated by the land-owners and Mahindra World City Developers Limited (MWCDL) that the industrial park of MWCDL has about 1400 acres. Further, in the area, there are industries and it is also a residential locality and schools, etc., are there and all the facilities are available in that area and the tankers, trucks and other vehicles are moving now and therefore, at present, there is no clear picture or materials shown by the respondents to show as to how they have arrived at the conclusion that the subject land(s) is/are not required. The said conclusion is also not supported by any Expert Committee Report.

50. As pointed out by the learned Senior Counsel appearing for the petitioner-Company, under the Industrial Purposes Act of 1997, the State Legislature confined the scope of the power of the Government to drop the acquisition only if it satisfies two criteria:

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(a) possession of land had not yet been taken, and

(b) if in the opinion of the Government, the lands are no longer required for the purposes of the Industrial Purposes Act of 1997.

51. Moreover, for establishing 'Industrial Park', larger extent of land(s), including the subject land(s), were also notified under Section 4(1) of the Old Land Acquisition Act of 1894 and that has not been so far quashed and the petitioner-Company has also clearly stated that the subject land(s) are required for free access and the administrative block and the security and admittedly, now, pending various writ proceedings, the Industrial Park has been established and the access is only through forest land with certain conditions.

52. Except the subject land(s), all the other land(s) is/are acquired and there are private negotiations and the petitioner-Company has also obtained loan and established the land(s), and that even in the impugned G.O.Ms.No.106, the Government has stated that the land(s) is/are needed for the purposes of the Act., viz., industrial park, inasmuch as it records that, "6. *It is also seen that due to the dropping of the Land Acquisition Proceedings in Survey Nos.405/3, 405/4 and 405/5, the approach to the National Highways has taken a narrow turn which, if it could be avoided. ...The Company may however explore other options to purchase these land directly from the land owners.*"

53. On a conspicuous reading of the facts involved in this Writ Petition, it

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is clearly shown that in order to help the private respondents 4 to 6 herein, for out-right purchase, the Government has passed the impugned G.O.(Ms).No.106.

The Government has accepted the proposal of the petitioner and made a promise to acquire the land(s) and the acquisition proceedings were also earlier initiated under the old Land Acquisition Act of 1894 and Section 4(1) Notification and also Section 6 Declaration were also made, though the private respondents 4 to 6 challenged both the Declaration under Section 6 and Section 4(1) Notification, but the Declaration under Section 6 was only quashed by this Court, as stated *infra*, but still, the petitioners are claiming that the subject land(s) are absolutely necessary for providing better benefits to the users of the 'industrial park', which was established by the petitioner-Company and the petitioner-Company has also established that there is no free access to the petitioner-Company's land. Further, considering the post-acquisition development of shifting of the Bus Stand from Koyambedu to Kilambakkam and that there is every possibility of traffic congestion and that 'Industrial Park' was also established in 1400 acres, as admitted by the official and private respondents herein, which is evident from the impugned G.O., and that various industries and big companies are also as of now functioning, coupled with the fact that the area is housing both residential units and commercial activities and thus, there is possibility of moving the vehicles in and out. Moreover, the official respondents have not placed any materials except the observations made out here and there,

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in the impugned G.O.

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54. Here, already, the land(s) were acquired, following by the issuance of Notification under Section 4(1) and so far, the Notification under Section 4(1) has not been quashed, even though it was also challenged in one of the writ proceedings as discussed supra, but only the Declaration under Section 6 was quashed. In the meanwhile, the Government had taken steps in respect of the acquisition process even under the provisions of the Industrial Purposes Act of 1997, which process was again challenged by the private respondents 4 to 6 herein. The Government has earlier passed G.O.Ms.No.88, Industries Department, dated 30.07.2009, which was already quashed by a Division Bench of this Court on 04.03.2014 in W.A.No.564 of 2010, etc.

55. For all the reasons stated above, the impugned G.O.(Ms).No.106, Industries (MIE.2) Department, dated 25.07.2016, is hereby quashed. Considering the subsequent development of the GST Road, more particularly, the establishment of companies, schools, etc., the official respondents 1 to 3 herein are directed to constitute an Expert Committee for conducting field study and thereafter, with the help of the report of the said Expert Committee, the official respondents 1 to 3 shall conduct fresh enquiry based on the submissions of both parties as well as the Expert Committee and pass fresh order in accordance with law and also considering the larger interest of the public.

56. The decisions relied on by either side, are distinguishable on facts and

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hence, the same are not applicable to the facts of the present case.

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57. Though this Court now had quashed the impugned G.O.Ms.No.106, Industries Department, dated 25.07.2016, but directs the respondents/authorities to consider the matter afresh, as the official respondents have simply stated in the impugned G.O., that a senior official of the Industries Department, conducted the field inspection and found that the subject land(s) were not used for commercial purpose and they have come to the conclusion that the subject land(s) are not require for the petitioner-Company, but this Court is not satisfied with the reasons assigned by the official respondents on the subject matter.

58. With the above observations/directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, pending miscellaneous petitions are closed.

03.06.2024

Index: Yes/no

Speaking Order: Yes/no

Neutral Case Citation: Yes/no

CS

To

1. State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,

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Industries Department,
Fort St.George, Chennai-600 009.

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2. The District Collector,
Kancheepuram District, Kancheepuram.
3. The Special Tahsildar (Land Acquisition),
Mahindra Industrial Park Scheme,
Melamaiyur, Chengalpattu.

P.VELMURUGAN, J



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CS

Pre-delivery Order
in W.P.No.19536 of 2018

Order Pronounced on
03.06.2024

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