

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 11.10.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.13958 of 2016

and

W.M.P (MD) Nos.10378 to 10380 of 2016

Muthumari,
Thangamayil Self Help Group Leader.

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.Kamatchi Mahalir Samippu
and Chikkana Nanaya Sangam,
No.119, 74, Sivagangai Main Road,
Managiri, Madurai - 20.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned order in H6/25092/2016, dated 12.07.2016, passed by the first respondent and quash the same.

For Petitioner : Mr.S.Gokul Raj

For Respondents : Mr.R.Murali, Standing Counsel
for R.1

Mr.A.Srinivasan for R.2

ORDER

This writ petition has been filed seeking a Writ of Certiorari, to quash the impugned order of the first respondent dated 12.07.2016, by which, one of the Pay and Use public toilets is leased out to the second respondent.

2. The facts of the case, as averred in the affidavit, is as follows:

2.1. There are twelve Pay and Use public toilets in Mattuthavani Bus Stand, Madurai and two Pay and Use public toilets in Mattuthavani Omni Bus Stand, Madurai. Based on Government



Policies and by resolution dated 25.09.2014, these toilets were leased out to self help groups and one of the toilets in Mattuthavani Omni Bus Stand, Madurai was leased out to the petitioner herein. It is pertinent to mention here that no lease period was mentioned in the document granting license.

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2.2. The petitioner, being the lessee, had paid the advance amount and was regularly paying the monthly rent, without any default. Whereas, all of a sudden, the first respondent, without any communication/opportunity to the petitioner, has passed the impugned order, leasing the subject mentioned toilet to the second respondent. Aggrieved over the same, the petitioner is before this Court.

3. The learned Standing Counsel, on instructions, submitted that the petitioner was earlier granted license for maintaining the toilet in question and after expiry of one full year period, the said toilet was leased out to the second respondent, which is nothing but a women self help group. Such a stand taken by the first respondent is affirmed by the second respondent, by their counter.

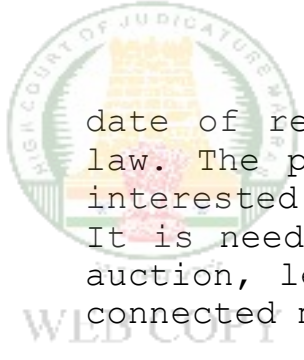
4. Heard the learned Counsel appearing for the petitioner, the learned Standing Counsel appearing for the first respondent and the learned Counsel appearing for the second respondent.

5. A perusal of the documents filed in support of the petition would show the fact that without mentioning the lease period, the petitioner was granted license and after expiry of one year, without conducting any public auction, the license was granted to the second respondent, that too without mentioning the lease period. Such act of the authorities cannot be countenanced.

6. In the earlier rounds of litigation, this Court directed the learned Standing Counsel to get instructions for conducting public auction in respect of all such toilets, including the present toilet in question.

7. Pursuant to the said direction, the learned Standing Counsel, today, on instructions, submitted that the authorities are inclined to go for public auction for all the Pay and Use toilets and for the toilet in question, if a reasonable time is granted, auction will be conducted.

8. Considering the facts and circumstances of the case and also the submission of the learned Standing Counsel, this writ petition is disposed of, directing the first respondent to conduct public auction for all such Pay and Use toilets and for the present toilet in question, the first respondent is directed to conduct public auction within a period of twelve weeks from the



date of receipt of a copy of this order, in the manner known to law. The petitioner and the second respondent as well as all the interested parties shall participate in the forthcoming auction. It is needless to mention here that in all the forthcoming public auction, lease period should be mentioned. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Madurai Corporation,
Madurai.

+ 1 cc TO Mr.M.Suresh kumar , Advocate in SR No. 82457

+ 1 cc TO Mr.S.Gokul Raj , Advocate in SR No. 82422

gk

AE/KK/SAR2/01.11.2017/3P/4C

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