



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**  
**and**  
**THE HONOURABLE MRS.JUSTICE R.THARANI**

C.M.P.(MD) No.11014 to 11016 of 2017  
in  
W.A.(MD) No.SR 46743, 46753 and 46748 of 2017

Seelaikariyamman Women Self

Help Group,

Ahimsapuram, Sellur, Madurai - 2

rep. by its Secretary A.Pandiammal

...Petitioner in CMP 11014/17 &  
Appellant in WA SR 46743/17

Santhanamariyamman Women Self

Help Groups,

Palam Station Road, No.1, Kaliyamman

Kovil Street, Sellur, Madurai

rep. by its Secretary Malarkodi

... Petitioner in CMP 11015/17 &  
Appellant in WA SR 46753/17

Kangothari Mahalir Sirusemippu and

Chikkana Nanaya Sangam,

No.15A, Boy Compound,

Bharathidhasan Street,

K.Salai Pudur, Madurai - 18

rep. by its Secretary Kamatchi

... Petitioner in CMP 11016/17 &  
Appellant in WA SR 46748/17

-vs-

1.Muthumari

2.The Commissioner,

Madurai Corporation,

Madurai.

3.Kamatchi Mahalir Semippu and

Chikkana Nanaya Sangam

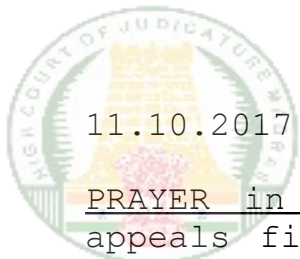
No.119, 74 Sivagangai Main Road,

Managiri, Madurai - 20.

... Respondents in all  
petitions and appeals

<https://hcservices.ecourts.gov.in/hcservices/>

PRAYER in C.M.P.(MD) Nos.11014 to 2017: Petitions filed under  
Section 151 of C.P.C. To grant leave to file present writ appeals  
against the order passed in W.P.(MD) No.13958 of 2016 dated



11.10.2017

PRAYER in W.A.(MD) Nos.SR 46743, 46753 and 46748 of 2017: Writ appeals filed under Clause 15 of Letter Patent, to set aside the impugned order made in W.P.(MD) No.13958 of 2016 dated 11.10.2017.

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PRAYER IN WP(MD)No.13958 of 2016:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court 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.

In all petitions and appeals  
For Petitioners and  
appellants

: Mr.R.Karthika

For Respondents

: Mr.R.Murali for R2

COMMON O R D E R

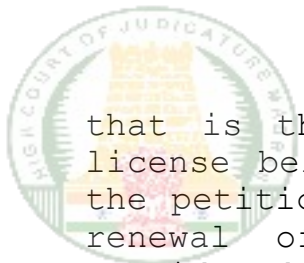
(Order of the Court was made by T.S.SIVAGNANAM, J.)

The petitioners, who are the Secretaries of Women Self Help Groups have filed these applications seeking leave to file writ appeals against the order dated 11.10.2017 made in W.P.(MD) No.13958 of 2016.

2.The said writ petition was filed by a person, who is similarly placed as that of the petitioner herein, who was granted a right to maintain a pay and use toilet in Mattuthavani Omni bus stand, Madurai. The matter was brought before the writ Court by way of the said writ petition on account of the dispute between two self help groups viz., first and third respondents herein. In the fight between both the self help groups, the net result is all similarly placed self help groups have now been affected. This is so because the Writ Court on considering the documents placed before the Court by the respondent Corporation found that license was granted for a period of one year and even after expiry of the period, without conducting any public auction, the license was granted to the third respondent that too without mentioning the license period. Thus finding that the entire procedure as adopted by the respondent Corporation was erroneous, the Writ Court directed the Corporation to conduct public auction for such pay and use toilets. The petitioners are now before this Court stating that they are also women self help groups, who have been given the license to maintain the pay and use toilet in other places and there is a resolution passed by the respondent Corporation to give preferential treatment to women self help group. Therefore, they should not be disturbed and they should be granted leave to file appeal and the order passed in the writ petition has to be set aside insofar as the license granted to them.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned counsel for the petitioners would submit that the license granted to the petitioners had expired in 2017 itself. If



that is the case, the petitioners cannot continue without their license being renewed. The submission of the learned counsel for the petitioner is that the petitioners have made representation for renewal of license, but, the respondent Corporation has not considered those representations.

4. The settled legal position is that a licensee has no vested right to continue beyond the license period. A license is not transferable and it will come to an end on the date when it expires. Therefore, if at all the petitioners want to continue further, it can be only by way of fresh license and there could be revised terms and conditions. Apart from that the contract awarded for maintaining the pay and use toilets is for the public convenience. Since the toilets are constructed by the Corporation of Chennai and revenue is earned out of it, there should be a transparent procedure adopted by the Corporation while granting license for maintaining pay and use toilets. If in the opinion of the respondent Corporation, organizations like the petitioners have to be given preference, it is well open to them to do so in a proper manner without any arbitrariness or capriciousness. Therefore, we find that the direction issued in the writ petition is just and proper and it is well open to the petitioner to represent to the respondent that may be given preference since they are women self help groups and a resolution is stated to have been passed by the Council earlier. However, we are not inclined to issue any positive direction in this regard and leave the decision to the respondent Corporation with a caveat, that their decision should be free from arbitrariness and satisfy the tests of Article 14 & 19(1)(g) of the Constitution.

5. The learned counsel appearing for the Corporation, on instructions, submitted that already tender process has started, notification has issued. We direct the petitioners to participate in the tender and may also represent to the respondent Corporation to give them preference, which if made to be considered in the light of the observation made in paragraph 4, supra. Till the tender process is completed, the petitioner shall not be disturbed.

6. With the above direction, these miscellaneous petitions are disposed of. No costs. Consequently, W.A.(MD) Nos. SR 46743, 46753 and 46748 of 2017 are rejected.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

- +One cc to Mr.R.Murali, Advocate, SR.No.51736
- +3 ccs to M/s.Right Law Associates, Advocate, SR.No.3115
- Arul
- RL/5C/3P/KK/SAR2/5/3/2018