



W.A.(MD).Nos.2142 and 2143 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD).Nos.2142 and 2143 of 2024
and
C.M.P.(MD)Nos.15120 and 15121 of 2024**

C.Ganesan ... Appellant in W.A.(MD)No.2142 of 2024

S.Ramnath ... Appellant in W.A.(MD)No.2143 of 2024

-VS-

The Commissioner,
Madurai Municipal Corporation,
Madurai. ... Respondent in both Appeals

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD)Nos.23717 and 23718 of 2024, dated 04.10.2024.

For Appellant (in both Appeals)	: Mr.T.Lajapathi Roy, Senior Counsel For Mr.J.Anandkumar
For Respondent (in both Appeals)	: Mr.Veera Kathiravan Additional Advocate General Assisted by Mr.K.Sivabalan



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COMMON JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The challenge in the Appeals is to the common order of the Writ Court, disposing of the Writ Petitions filed by the petitioners, challenge in which, was to to the notice issued by the Commissioner, Madurai Corporation/respondent requiring the petitioners to hand over the pay and use toilet in MGR Bus Stand to the Madurai Corporation within 24 hours.

2.Admittedly the period of licence that was granted to the petitioners expired in the year 2021 itself. This Court by order dated 22.06.2023, made in W.P.(MD)Nos.9526 and 9527 of 2021, permitted the petitioners to continue till the next auction. After almost the year and quarter, the Corporation has issued a final notice stating that the appellants are not properly maintaining the toilets and they are also collecting excess fee from the users. The notice also states that the Corporation has decided to convert the pay and use toilets into free toilets. It is this notice, that is subject matter of challenge before the Writ Court. The learned Single Judge found that the petitioners cannot take exception to the notice in as much as the lease last period had expired long ago and they have been continuing only under the protection granted by this Court. The learned



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Single Judge also directed all other unauthorized encroachers, who are squatting over the premises, after the expiry of the lease to be evicted.

3.Mr.T.Lajapathi Roy, learned Senior counsel appearing for the appellants would submit that the Provisions of the Section 302 of the Tamil Nadu Urban Local Bodies Act, 1998, have been breached. Drawing our attention to Sub Clause (c) of Clause (1) of Rule 302, the learned Senior Counsel would submit that show cause notice is mandatory. No doubt, the Provision requires seven days show cause notice to be issued before revocation or suspension of licence. As already adverted to, the licence had expired long ago in the year 2021. The appellants were continuing only under the orders of this Court and their continuance was till the conduct of the auction. Therefore, when there is no subsisting licence, the question of revocation or suspension would not arise.

4.The learned Senior Counsel invite our attention to Section 40 of the Act, which invest the power to establish public comfort stations, latrine and bathing place in the Municipal Council to contend that conversion of pay and use toilet into free toilet is also within the domain of Council. We find such objection is premature and the appellants cannot prevent the Corporation from making the facility, free of cost to the public.



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5.Hence, we do not see any merit in the Appeals. The Appeals fail and they are accordingly dismissed. If any auction is conducted by the Corporation in respect of these toilets, whether be it a free toilet or pay and use toilet, the appellants cannot be prevented from participating thereat. No Costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.] [L.V.G., J.]
28.10.2024

NCC :Yes/No
Index :Yes/No
Internet: Yes
Mrn

To

The Commissioner,
Madurai Municipal Corporation,
Madurai.



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Mrn

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