



W.P.(MD) No.3695 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P.(MD) No.3695 of 2025
and
W.M.P.(MD) No.2654 & 2656 of 2025**

Krishnan

... Petitioner

-VS-

1.The Principal Secretary of Government
Municipal Administration and
Water Supply (Na.Ni.4) Department
M.R.C.Nager, Chennai-28

2.The Commissioner of Corporation
Tirunelveli Corporation
Tirunelveli

3.A.J.M.Solomon
President
Gandhi Market Vendors
United Association
No.23/1, Mahatma Gandhi Daily Market
Palayamkottai, Tirunelveli-627 602
now at No.76, Mahatma Gandhi Daily Market
Jawahar Ground, Palayamkottai
Tirunelveli-627 602
[R3 is impleaded *vide* Court order
dated 24.02.2025 in W.M.P.(MD)
No.3648 of 2025]

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records regarding the G.O.(2u) No.66, dated 06.08.2024, issued by the first respondent and the resolution No.25, passed by the second respondent dated 30.12.2024 and quash the same and consequently direct the respondents to follow the Rule 316 of the Tamil Nadu Urban Local Bodies Rules, 2023.

For Petitioner : Mr.M.Ramu

For Respondents : Mr.P.Thilakkumar
Government Pleader for R1
Mr.S.P.Maharajan
Special Government Pleader for R2
Mr.V.Balaji for R3

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

Under assail is Clause (X) in Paragraph No.3 of the G.O.(2u) No. 66, Municipal Administration and Water Supply (Na.Ni.4) Department, dated 06.08.2024, issued by the first respondent.

2. The core contention of the petitioner is that Clause (X) in Paragraph No.3 of the G.O.(2u) No.66, Municipal Administration and Water Supply (Na.Ni.4) Department, dated 06.08.2024, issued by the first respondent, is violative of Rule 316 of the Tamil Nadu Urban Local Bodies Rules, 2023 (in short, “the Rules, 2023”).



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3. To examine the said violation, it is relevant to consider the nature of the impugned Clause in the said Government Order. The said Clause stipulates that the Municipality shall demolish the old building and after construction of a new building, the Municipality shall permit the existing lessees to occupy the newly constructed building. In this regard, a memorandum of understanding shall be entered into between the Municipality and the existing leaseholders. According to the petitioner, such an arrangement is directly in violation of Rule 316 of the Rules, 2023.

4. Let us now examine the Rule 316 of the Rules, 2023. The said Rule speaks about licencing or leasing of immovable properties. Sub Rule (5) of Rule 316 of the Rules, 2023 reads as under:

“(5) Licence or lease for land and buildings let out for commercial or residential purpose including shopping complexes or public markets belonging to the municipality shall be effected by public auction-cum-tender which shall be conducted by the Commissioner or by a person duly authorized in this behalf.”

5. Sub Rule (9) of Rule 316 of the Rules, 2023, reads as under:

“(9) Auction-cum-tender.- The Commissioner or a



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person duly authorized by him should conduct the auction-cum-tender and shall not permit any person who fails to deposit as security such sum as may be specified in the preliminary notice to bid at the auction.”

6. Sub Clause (b)(i) to Sub Rule (11)(a) of Rule 316 of the Rules, 2023, reads as under:

“(b)(i) Any person claiming such preference shall be required to match the highest bid price and submit necessary documents proving eligibility for preference;”

7. A holistic reading of the above provision would indicate that the authorities concerned is under obligation to conduct the public auction in accordance with law and in a transparent manner. Any memorandum of understanding, which is otherwise not contemplated under the Rules, cannot be followed, since there is a possibility for extraneous consideration in such circumstances. That apart, there is a likelihood for causing financial loss to the Municipality and other adverse implications can also be drawn.

8. In the present case, Clause (X) of the said Government Order indicates that the Municipality shall enter into a memorandum of understanding with the existing leaseholders. The lease was granted for a



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particular period and if at all during the existence of the lease period, the building is demolished and reconstructed, then preference can be given to the existing leaseholders only with reference to Sub Clause (b)(i) to Sub Rule (11) (a) of Rule 316 of the Rules, 2023, and the existing leaseholders have no other preference at the choice of the authorities concerned.

9. In view of the above legal position, this Court is of the considered view that Clause (X) of G.O.(2u) No.66, Municipal Administration and Water Supply (Na.Ni.4) Department, dated 06.08.2024, issued by the first respondent, runs counter to Rule 316 of the Rules, 2023, therefore, the petitioner herein is entitled to succeed.

10. Accordingly, this writ petition is allowed and Clause (X) of G.O.(2u) No.66, dated 06.08.2024, issued by the first respondent, is set aside and the respondents are directed to conduct public auction strictly in consonance with the Rules, 2023, and in a transparent manner. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[A.D.M.C., J.]

03.06.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No



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