



W.P(MD)No.7333 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 11.11.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Petition(MD)No.7333 of 2025
and W.M.P(MD).Nos.5521, 5524, 11556 and 5527 of 2025

N.Thamarai Bharathy

.. Petitioner

Vs

1.The Commissioner,
Kanyakumari Municipality, Kanyakumari.

2.S.Hariharan

.. Respondents

(R2 is impleaded vide Court order dated 07.10.2025 in W.M.P(MD).No.8056 of 2025 in W.P(MD).No.7333 of 2025 by PTAJ)

(R1 is amended vide Court order dated 11.11.2025 in W.M.P(MD).No.25160 of 2025 in W.P(MD).No.7333 of 2025))

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned paper publication issued by the respondent in Na.Ka.No.16/2025/A2 dated 27.02.2025 in respect of Serial No.3 public Toilet auction and the consequential proceedings of the respondent made in Letter Na.Ka.No.26/2025/A2 dated 03.03.2025 and quash the same and consequently direct the respondent to extend the license in favour of the petitioner.



W.P(MD)No.7333 of 2025

For Petitioner : Mr.R.Murali
for Mr.K.Kaleeshwaran

For Respondents : Mr.H.Arumugam
Standing Counsel (for R1)
Mr.M.P.Senthil (for R2)

ORDER

This writ petition has been filed to quash the impugned paper publication issued by the respondent in Na.Ka.No.16/2025/A2 dated 27.02.2025 in respect of Serial No.3 relating to public Toilet auction and consequential proceedings of the respondent made in Letter Na.Ka.No.26/2025/A2 dated 03.03.2025 and direct the respondent to extend the license in favour of the petitioner.

2. The petitioner would submit that he has been a licensee in respect of the public toilet belonging to the respondent Town Panchayat for the past 10 years. He has been regularly paying the licensee fees up to date.

3. While so, the respondent Town Panchayat had revised the license for a period of three year vide proceedings dated 31.03.2022, by enhancing the charges. The petitioner was directed to pay a sum of Rs.4,22,617/- as licensee fee for a period of one year i.e., 2022-2023 and the said amount has been



W.P(MD)No.7333 of 2025

further revised with an annual increase of 5%.

WEB COPY

4. The petitioner would submit that the Government had issued G.O.Ms.No.92, Municipal Administration and Water Supply Department, dated 03.07.2007, in respect of extension of lease cum licenses belonging to Town Panchayats and Municipalities. As per the said Government Order, after the period of nine years, the Municipalities ought to have revised the base lease amount and refix the license fee for another period of nine years with a periodic increase of 5% every year and 15% of increase once in three years. In the light of above Government Order, the petitioner has made a representation dated 20.01.2025 requesting extension of license from 01.04.2025 to 31.03.2028 as his lease period was due to end on 31.03.2025. However, without considering the petitioner's request, the present impugned publication has been issued. The petitioner's reason for seeking to quash the said publication on the ground that he has spent over a sum of Rs.10,00,000/- in modifying the fitting of the public toilet, maintenance of building, arranging water facility etc.

5. The first respondent has filed a counter *inter alia* denying the claim of the petitioner. The first respondent would submit that the Government Order referred to above was the subject matter of challenge in W.P(MD).No.3635 of



W.P(MD)No.7333 of 2025

2008 and the operation of the said Government Order was stayed vide interim order dated 07.10.2014. Ultimately, the writ petition was disposed of by order dated 22.04.2024 recording that the procedure contemplated under Section 78 of the Tamil Nadu Urban Local Bodies Act, 1998, setting forth how the licenses /leases can be extended for the public largesse and the maximum period was restricted to a period of three years. The petitioner was given only a license to collect fees for the use of the public toilet which cannot be equated to a lease. Therefore, the aforesaid Government Order was not applicable to the petitioner. That apart, the petitioner has been holding the license for over 10 years and the license has been periodically renewed on the basis of the resolution of Council, without conducting a public auction.

6. The first respondent would also submit that the Government had issued G.O.Ms.No.45, Municipal Administration and Water Supply (Election) Department, dated 12.04.2023, notifying the Rules, which stipulates that licensing or leasing of immovable properties belonging to the Municipality shall be carried out once for a period of three years. Therefore, the petitioner cannot claim an automatic extension after having enjoyed the license from the year 2007 by paying only a meagre licence amount. Hence, the first respondent has sought dismissal of this writ petition.



W.P(MD)No.7333 of 2025

WEB COPY

7. The second respondent has also filed counter *inter alia* contending that to promote transparency and accountability in the administration of public property, Rule 316 of the Tamil Nadu Urban Local Bodies Rules, 2023, was enacted by the State Government, which prohibits the first respondent Municipality from granting or renewing any lease in respect of public properties beyond a period of three years. Sub-Rule (5) of Rule 316 stipulates that all leases have to be granted only through public auction. Therefore, the very relief sought in this writ petition was contrary to the language of Rule 316.

8. The second respondent would further submit that if the lease period is extended to the petitioner, then it would defeat the very purpose of conducting a public auction. It is his contention that the petitioner having enjoyed the lease for a continuous period of ten years cannot claim any monopoly or seek further extension. He therefore prays that the writ petition be dismissed.

9. Heard the learned counsel on either side.

10. The ground on which the petitioner demands an extension of lease is



W.P(MD)No.7333 of 2025

that he has spent huge sums of money. The petitioner has been enjoyed the profits from the license for over 18 years from the year 2007 and therefore, he cannot seek to be permanently appointed as the licensee of the first respondent Municipality in respect of pay and use toilet by periodically extending the lease.

11. Further the language of Rule 316(1) clearly stipulates that the license or lease to any person for use and occupation of any land or building belonging to the Municipality cannot be granted for a period exceeding three years and on completion of the said period, steps stipulated in Sub-Rule (1) have to be followed and no extension of renewal shall be permitted and the application must be considered afresh. Therefore, in the light of the language of Rule 316, the petitioner's challenge to the impugned publication is not maintainable. Accordingly, the Writ Petition is disposed of with the following direction:-

- (i)The first respondent shall proceed with the tender process until its finalization;
- (ii)Until such time the tender is finalised, the petitioner shall be permitted to continue '
- (iii)Immediately upon identification of the successful bidder, the petitioner shall hand over the possession.



W.P(MD)No.7333 of 2025

WEB COPY

(iv)It is open to the petitioner to participate in the tender process as well.

No costs. Consequently, connected Miscellaneous Petitions are closed.

11.11.2025

NCC : Yes/No

(2/2)

Index : Yes/No

Internet:Yes

Rmk

To
The Commissioner,
Kanyakumari Municipality, Kanyakumari.



WEB COPY



W.P(MD)No.7333 of 2025

P.T.ASHA, J.

Rmk

Writ Petition(MD)No.7333 of 2025

11.11.2025
(2/2)