

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.21509 of 2019
and W.M.P.No.20713 of 2019

T.Srinivasan

...Petitioner

Vs

1. The Commissioner,
Maraimalai Nagar Municipality,
Maraimalai Nagar,
Chengalpet Taluk, Kancheepuram District.

2. K.Jayakumar

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent dated 31.1.2019 in Na.Ka.No.08-2018-A1, quash the same and consequently, direct the respondent not to interfere with the petitioner's right to have a gate on the Eastern side of the petitioner's property situate at Plot No.MIG 144, Neighbourhood-1, Maraimalai Nagar, Chenglepet Taluk, Kancheepuram District.

For petitioner : Mr.A.Jenasenan

For Respondents : Mr.P.Srinivas
Standing counsel for R1

: Mr.V.Manoharan for R2

WEB COPY
O R D E R

The grievance of the petitioner herein is that based on the complaint given by the 2nd respondent, the 1st respondent has issued notice dated 31.01.2019 wherein the petitioner herein is restrained by the 1st respondent from altering the physical feature of his building without prior approval of the 1st respondent.

2. According to the petitioner, he had some misunderstanding with the 2nd respondent. Therefore, based on the complaint, the 1st respondent has issued the above notice which is impugned in this writ petition.

3. From the affidavit, it is also found that abutting the property of the petitioner there is a 40 feet road on the Northern side and 20 feet road on the Eastern side. When the petitioner intended for entrance to ingress and egress by putting a gate on the Eastern side of the property, the 2nd respondent who is the neighbour residing at Plot No.143, has given a complaint to the police and to the 1st respondent. A suit has been filed by the petitioner before the District Munsif Court, Chengelpet seeking relief for permanent injunction.

4. In the said circumstances, the impugned order has been passed by the 1st respondent. The learned counsel for the 2nd respondent would submit that under the guise of putting entrance gate on the Eastern side the petitioner try to encroach upon the public road by putting a ramp that is why complaint has been given to the police and also to the 1st respondent.

5. From the facts has been narrated by the petitioner in his affidavit as well as by his oral submissions, it is clear that out of apprehension that the petitioner may intrude upon the public road and cause inconvenience, the 2nd respondent has given a complaint. If the petitioner is going to put a gate within his property and not intrude upon the a public road, the 2nd respondent has no objection for the same and there is no right for object also.

6. In the light of the above facts, the impugned order of the 1st respondent if read, it is clear that it only restrain the petitioner from demolishing or altering his approved building without prior sanction of the authority. The content of the impugned order is well within the legal parameters. This restrained order will not cover putting up a gate in the compound wall within the premises of the petitioner. It is neither alteration of building nor demolition of the building contrary to the approved building plan. There is no legal impediment for the petitioner put up a gate in the compound wall, however he cannot put up any structure encroaching upon the public road either in the shape of ramp or any other structure altering the existing building.

7. With these observation, this Writ Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpl

To

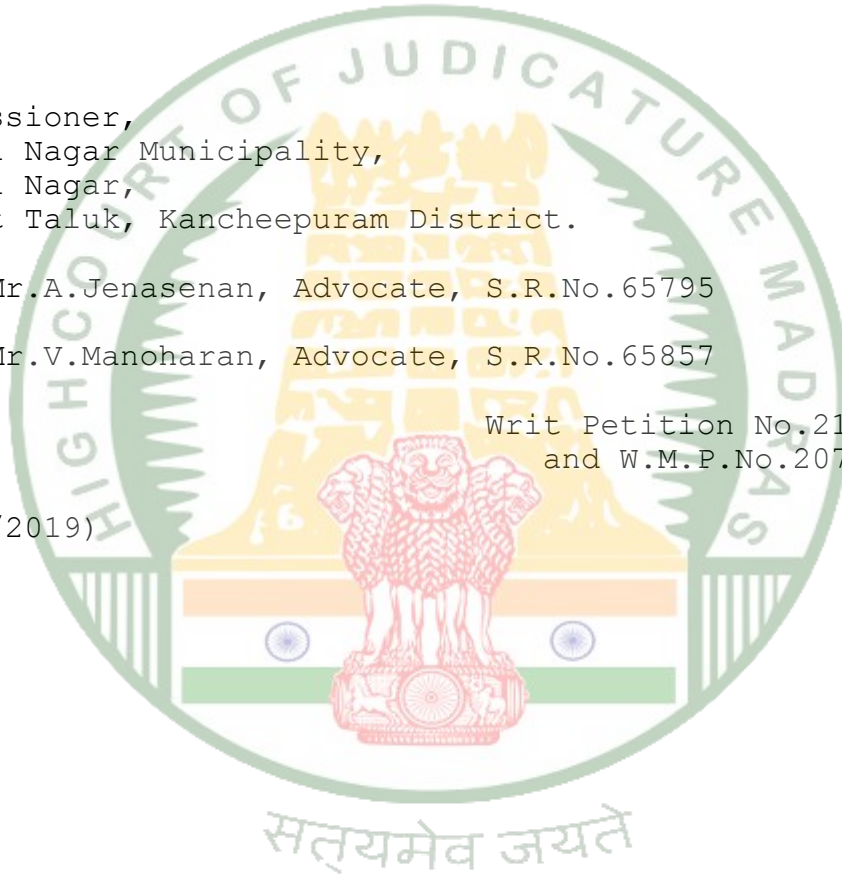
The Commissioner,
Maraimalai Nagar Municipality,
Maraimalai Nagar,
Chengalpet Taluk, Kancheepuram District.

+1 cc to Mr.A.Jenasenan, Advocate, S.R.No.65795

+1 cc to Mr.V.Manoharan, Advocate, S.R.No.65857

Writ Petition No.21509 of 2019
and W.M.P.No.20713 of 2019

SS(CO)
SSM(03/09/2019)



WEB COPY