



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH  
AND  
THE HONOURABLE MRS. JUSTICE S. ANANTHI

Cont. P(MD) No.837/2020 and Sub A(MD) No.120 of 2020  
and

W.P. (MD) Nos. 6232 of 2020, 20488 of 2019, 16918 of 2019  
(Through Video Conferencing)

**Cont.P. (MD) No.837/2020**

S.A.Joy Raja : Petitioner/Petitioner

Vs.

Asha Ajith  
The Commissioner  
Nagercoil Municipal Corporation  
Nagercoil  
Kanyakumari District.

: Respondent/2<sup>nd</sup> Respondent

**PRAYER:** Contempt Petition is filed under section 11 of Contempt of Courts Act, 1971 to punish the respondent herein for his wilful disobedience of the order made in W.M.P. (MD) No.5443 of 2020 in W.P. (MD) No.6232 of 2020 dated 20.05.2020 on the file of this Court.

Prayer in WMP(MD). 5443/ 2020 :

Writ Miscellaneous Petition is filed praying to Stay all further proceedings pursuant to the impugned Form II notice made in Na.Ka.No.1823/2019/F1 dated 17.03.2020 passed by the 2nd respondent, pending disposal of the above writ petition.

For Petitioner : Mr.Isaac Mohanlal  
Senior counsel for  
Mr.D.Sadiq Raja

For respondent : Mr.P.Athimoolapandian

**W.P. (MD) No.6232/2020**

S.A.Joy Raja : Petitioner

Vs.



1.The District Collector,  
Nagercoil,  
Kanyakumari District.

2.The Commissioner  
Nagercoil Municipal Corporation  
Nagercoil  
Kanyakumari District.

: Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records pertaining to the impugned Form I notice made in Na.Ka.No.1823/2019/F1 dated 04.03.2020 as well as the consequential impugned Form II notice made in Na.Ka.No.1823/2019/F1 dated 17.03.2020 passed by the 2<sup>nd</sup> respondent and quash the same.

For Petitioner : Mr.Isaac Mohanlal Senior counsel for  
Mr.D.Sadiq Raja

For respondent : Mrs. J.Padmavathi Devi  
Special GP for R1

Mr.P.Athimoolapandian for R2

**W.P. (MD) No.20488/2019**

S.Saravanan  
Managing Partner,  
Chakkaravarthy Theatre & Sri Mini Chakkaravarthy Theatre  
Nagercoil,  
Kanyakumari District

:Petitioner

Vs.

1.The District Collector,  
Nagercoil,  
Kanyakumari District.

2.The Commissioner  
Nagercoil Municipal Corporation  
Nagercoil  
Kanyakumari District.

3.The Sub Collector,  
Collectorate Complex,  
Nagercoil,  
Kanyakumari District.



4.The Commissioner  
HR&CE Department  
Nungampakkam  
Chennai.

5.The Joint Commissioner  
HR&CE Department  
Tirunelveli.

6.The Tahsildar,  
Agasteeswaram  
Kanyakumari District.

: Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order made in Roc.No.C2/34817/2011 dated 21.08.2019 passed by the 1<sup>st</sup> respondent and quash the same and consequently direct the 1<sup>st</sup> respondent to issue 'C' Form license in favour of the petitioner for running Chakravarthy and Sri Mini Chakravarthy theatres comprised in T.S.No.N5/64 part, 65,66,67,68 and 69 part, situated at Rajamangalam Road, Chettikulam Junction, Nagercoil, Kanyakumari District within the time stipulated by this Court.

For Petitioner: Mr.Isaac Mohanlal  
Senior counsel for  
Mr.D.Sadiq Raja

For respondent: Mr.VR.Shanmuganathan for R4& R5  
Special Government Pleader  
Ms.J.Padmavathi Devi for R1, R3, & R6  
Special Government Pleader  
Mr.P.Athimoolapandian for R2

**W.P. (MD) No.16918/2019**

S.A.Joy Raja

: Petitioner

Vs.

1.The District Collector,  
Nagercoil,  
Kanyakumari District.

2.The Commissioner  
Nagercoil Municipal Corporation  
Nagercoil  
Kanyakumari District.



3. The Sub Collector,  
Collectorate Complex,  
Nagercoil,  
Kanyakumari District.

4. The Deputy Superintendent of Police,  
Nagercoil, Kanyakumari District.

: Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records pertaining to the impugned notice made in Na.Ka.No.3440/2019/F1 dated 07.05.2019 passed by the 2<sup>nd</sup> respondent and quash the same.

For Petitioner : Mr. Isaac Mohanlal  
Senior counsel for  
Mr. D. Sadiq Raja

For respondents : Ms. J. Padmavathi Devi for R1, R3, & R4  
Special Government Pleader

Mr. P. Athimoolapandian for R2

**COMMON ORDER**

**(Order of the Court was made by M.M. SUNDRESH, J)**

W.P. (MD) No. 6232/2020 has been filed challenging the impugned notice issued under Section 56, 57 and 85 of the Town and Country Planning Act.

2.W.P. (MD) No. 20488/2019 has been filed challenging the cancellation of C Form License.

3.W.P. (MD) No. 16918/2019 has been filed challenging the order passed under Act 2 of 1988.

4. The contempt petition has been filed for the alleged disobedience of the order passed in W.M.P (MD) No. 5443/2020 in W.P. (MD) No. 6323/2020 dated 20.05.2020.

5. As all these matters pertaining to the same petitioner and respondents, they have been taken up and disposed of by common order. Though there are other respondents, in view of the commonality in the issues also, we are inclined to pass common order.

6. The impugned orders admittedly are appealable in nature, though before different appellate authorities.

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



7. The petitioner has been running a Multiplex complex. The learned Senior counsel for the petitioner submitted that only after the onset of Pandemic, the building has been closed and therefore, hitherto the activities were going on.

WEB COPY

8. The learned counsel for the respondent Municipality submitted that there is no contempt as such, particularly when the violation is at the hands of the petitioner by putting up additional construction. The order has to be interpreted to mean that status quo is only with respect to the construction alone and not for running. In the case on hand, the petitioner has violated the Town and Country Planning Act by putting up construction unauthorizedly and without obtaining permission.

9. We are not inclined to go into the merits of the case in all these three writ petitions.

10. W.P.(MD) No.6232/2020 has been filed against the action taken by the respondent Municipality for the violation committed against the Tamil Nadu Town and Country Planning Act. An appeal would lie before the Government under Section 10A of the said Act. Similarly, as against the cancellation of the license, an appeal would lie. However, insofar as the action taken rejecting the permission on the application of the petitioner dated 06.05.2020 is concerned, it is the very same Commissioner, who is entitled to consider.

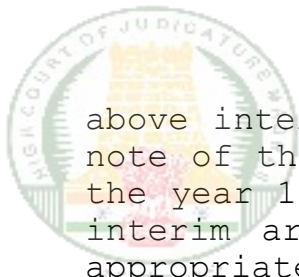
11. The Contempt Petition has been filed inter alia alleging that the order of status quo has not been complied with. While the petitioner is not entitled for putting up construction, the order of status quo would only mean that he is entitled to continue the operation. The petitioner has been operating the building from the year 1984 onwards. But for the Pandemic, he wanted to start its function by making alteration. Under those circumstances, an order was passed by the Municipality, which cannot be termed as wilful or contemptitious. It may be a wrong understanding of the order passed by the Court, but certainly, there is no contempt involved.

12. In such view of the matter, the contempt petition is closed.

13. W.P.(MD) Nos.6232 of 2020, 20488 of 2019 and 16918 of 2019 stand disposed of in the following manner:

(i) The petitioner is at liberty to file an appeal challenging the order passed under Section 56, 57 and 85 of the Town and Country Planning Act within a period of four weeks from the date of receipt of a copy of this order. Till such time, he is entitled to run the Mall. Thereafter, it is open to the petitioner to get appropriate interim order before the appellate Authority;

<https://hcservices.ecourts.gov.in/hcservices/> The building in question shall be opened in view of the



above interpretation of the interim order passed and also by taking note of the fact that the petitioner has been running the show from the year 1984 onwards. However, we make it clear that it is only an interim arrangement till the petitioner files an appeal and gets appropriate orders from the appellate authority;

WEB COPY

(iii) The cancellation of C Form License is put on hold till the petitioner files an appeal, within a period of four weeks from the date of receipt of a copy of this order. Here again, the petitioner is entitled to get the above interim order before the appellate authority;

(iv) Insofar as the order rejecting the permission for license under Act 2 of 1988 is concerned, there is no appeal would lie and therefore, the same stands set aside so as to facilitate the petitioner to furnish the documents as required. After all the petitioner has been doing the said business for number of years. We are inclined to grant four weeks time for representation of the papers by the petitioner with due compliance. Till such time, the petitioner is permitted to carry on the activities;

(v) Before the appellate authority, namely, the Government, the petitioner is entitled to raise all the contentions both on facts and law. No costs. Consequently Sub A(MD) No.210 of 2020 is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,  
Nagercoil, Kanyakumari District.

2.The Commissioner  
Nagercoil Municipal Corporation  
Nagercoil, Kanyakumari District.

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



3. The Sub Collector,  
Collectorate Complex,  
Nagercoil, Kanyakumari District.

4. The Commissioner  
HR&CE Department  
Nungampakkam, Chennai.

5. The Joint Commissioner  
HR&CE Department, Tirunelveli.

6. The Tahsildar,  
Agasteeswaram, Kanyakumari District.

7. The Deputy Superintendent of Police,  
Nagercoil,  
Kanyakumari District.

+4 CC to M/s.D.SADIQ RAJA, Advocate ( SR-751 to 754[F] dated  
11/01/2021 )

+1CC to Special Government Pleader Sr.No.793

Order made in  
**W.P. (MD) Nos. 6232 of 2020, 16918, 20488 of 2019  
and Cont. P. (MD) No.837 of 2020  
and Sub A(MD) No.120 of 2020**

Dated: 08.01.2021

SE (CO)  
NR (01/02/2021) 7P : 13C