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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA
AND
THE HONOURABLE MR. JUSTICE K. KUMARESH BABU

W.A.No.3079 of 2019
and
C.M.P.No.19608 of 2019

K.Jayakumar

... Appellant

Vs.

1. T.Srinivasan

2. The Commissioner,
Maraimalar Nagar Municipality,
Maraimalar Nagar,
Chengelpet Taluk,
Kancheepuram District.

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against to set aside the order dated 01.08.2019 made in W.P.No.21509 of 2019.

Prayer in W.P.No.21509 of 2019: 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, Chengalpet Taluk, Kancheepuram District.

For Appellant : Mrs.R.T.Shyamala

For R1 : Mr.A.Jenasenan

For R2 : Mr.P.Srinivas (for Municipality)



J U D G M E N T
(Judgment was delivered by T. RAJA, J.)

This writ appeal is directed against the impugned order, dated 01.08.2019, made in W.P.No.21509 of 2019, in and by which, the learned Single Judge has categorically held that, if the writ petitioner is going to put up a gate within his property and not going to intrude upon the public road, the appellant/2nd respondent therein can have no objection for the same and he has no right of objection also. Challenging the same, the writ appeal has been filed.

2.Learned counsel appearing for the appellant would submit that, when the 1st respondent, without getting any sanction from the concerned authority, had demolished his compound wall and put up a gate, thereby making a new ingress and egress in the road situated in the backside of his compound wall, the same is to be considered as change of ingress and egress to his property. Continuing her arguments, the learned counsel for the appellant would submit that there is no sanction plan for the 1st respondent to have an access from his backyard and without getting sanction from the 2nd respondent, a new door was opened in the backside road to have an access to the backside road and further, it is the dead end of the road, in which, if the gate is put up, it will affect the appellant herein, whose door is on that road.

3.We do not find any merit or justification in the submissions made by the learned counsel for the appellant. The reason is so simple that, when the writ petitioner is the owner of Plot No.MIG 144, as long as he is not going out of his land boundaries, he is entitled to raise compound wall not exceeding 2 metres. It is relevant to extract Rule 10(5) of Tamil Nadu Combined Development and Building Rules, 2019, hereunder :

"10.Sanction : ... (5) No building permission is necessary for the following alterations, which do not otherwise violate any provisions regarding general building requirements, structural stability and fire safety requirements of this Rule;

- (a) plastering and patch repairs;
- (b) re-roofing or renewals of roof including roof of intermediate floors at the same height;
- (c) flooring and re-flooring;
- (d) opening and closing of windows, ventilators and doors not opening towards other's properties and / or public road or property;
- (e) replacing fallen bricks/stones
- (f) construction or re-construction of sunshade not more than 75cms. in width within one's land and not overhanging over a public street;
- (g) construction or re-construction of parapet not more than 1.5 m. in height and also



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construction or re-construction of boundary wall not exceeding 2 m
(h) white-washing, painting, etc. including erection of false ceiling in any floor at the permissible clear height provided the false ceiling in no way can be put to use as a loft etc."

4.A perusal of the above clearly shows that no such permission is necessary for minor alterations which do not otherwise violate any provisions regarding general building requirements, structural stability and fire safety requirements. Rule 10(5)(d) states that, for opening and closing of windows, ventilators and doors not opening towards other's properties or public road, no such permission is necessary. Rule 10(5)(g) also states that, for construction or re-construction of parapet not more than 1.5 m in height and for construction or re-construction of boundary wall not exceeding 2 m, no such permission is required. Therefore, we do not find any error in the impugned order passed by the learned Single Judge.

5. Therefore, the writ appeal fails and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mkn

To

The Commissioner,
Maraimalar Nagar Municipality,
Maraimalar Nagar,
Chengelpet Taluk,
Kancheepuram District.

+2ccs to Mr.A.Jenasenan, Advocate SR. No. 34719
+1cc to M/s.R.T.Shyamala, Advocate SR. No. 35242

W.A.No.3079 of 2019

SKM (CO)
PR (27/05/2022)