

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2019

CORAM

The Honourable Mr.Justice M.DHANDAPANI

W.P.No.40114 of 2005

and

W.P.M.P.Nos.43010 & 43011 of 2005

Hilango Munien @ Hilango Veerasamy,
Rep. by his Power Agent
D.Sousainathan,
S/o. Devaraj,
No.465, M.G.Road, Pondicherry -1. ...Petitioner

Versus

1. Union of India,
Rep. by U.T of Pondicherry,
Rep. by The Chief Secretary to Pondicherry,
Chief Secretariat Building,
Pondicherry.
2. The Secretary to Government,
U.T. of Pondicherry,
Town Planning Department,
Anna Nagar, Pondicherry.
3. The Commissioner,
Pondicherry Municipality,
Pondicherry.
4. Tmt. Marie Josephine Abner
5. The Town Planning Authority,
U.T. of Pondicherry,
Town Planning Department,
Anna Nagar, Pondicherry. ...Respondents

(*R5 impleaded as per order dated 31.03.2008 in WPMP.
No.1689/2006 in WP.No.40114/2005 by SKKJ*)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 1 to 3 to initiate action against the 4th respondent restraining her from putting up construction in Ward-D, Block No.30, T.S.No.65, R.S.No.239/pt. Situated at Goubert Salai, Pondicherry Town, with Door No.48-E (formerly 23 and 65)

without sanction, building plan, verification of the ownership of the property and to demolish the illegal construction put up thereon.

For Petitioner : Mr.Mani Sundargopal

For Respondents : Mr.G.Djearany
Government Advocate (for R1 to R3)
Puducherry
Mr.R.Sathish Kumar for R4

O R D E R

The above Writ Petition is filed for issuing a Writ of Mandamus directing the respondents 1 to 3 to initiate action against the 4th respondent restraining her from putting up construction in Ward-D, Block No.30, T.S.No.65, R.S.No.239/pt. situated at Goubert Salai, Pondicherry Town, with Door No.48-E (formerly 23 and 65) without sanction, building plan, verification of the ownership of the property and to demolish the illegal construction put up thereon.

2. The case of the petitioner is that the petitioner is the owner of the vacant site of land situated in Ward-D, Block No.30, T.S.No.65, R.S.No.239/pt. situated at Goubert Salai, Pondicherry Town, with Door No.48-E (formerly 23 and 65) a thatched house with land, bounded to the South of Ashram Hospital to the North of Vietnam Hotel, to West of Goubert Salai, and to the east of the House of Cice, measuring on the northern side East to West 17.2 meters, on the southern side East to West 14.6 meters and on the east and west, north to south 12 meters total 1970 sq.meters.

3. Taking advantage of the fact that the petitioner is residing at France, one Soupramanian @ Viswanathan, who is the husband of the petitioner's sister daughter, illegally occupied the said property. The said Soupramanian @ Viswanathan is playing fraud upon the Government via the Settlement Officer, representing that he is the owner of the property and obtained patta in his name to appear that he is the real and original owner. Aggrieved by the said illegal construction, the petitioner has filed the present writ petition before this Court.

4. The 4th respondent filed a counter affidavit and the learned counsel submitted that the said property mentioned in the writ petition belongs to one Hilango Veeraswami @ Soupramanian son of late Veeramuthu. The 4th

respondent purchased the above said property for valuable consideration for the sum of Rs.6,05,000/- and the sale deed was registered as Document No.1822/94 of Book 1 Volume 1161 Pages 99 to 106 on the file of the Sub-Registrar, Pondicherry in the Office of District Registrar, Pondicherry.

5. Further albeit, the petitioner already instituted the suit in O.S.No.283/88 on the file of Additional Sub Judge at Pondicherry against the vendor of the 4th respondent and the suit was decreed on 29.06.1990. Subsequently, the 4th respondent-Vendor filed a Review Application No.987/90 in O.S.No.283/88 and the said decree was set aside on 29.06.1990 by the Learned Additional Sub Judge by his order dated 11.10.1990. Thereafter, aggrieved by the said decree, the petitioner filed a First Appeal before this Court in A.S.No.290 of 1991. Further, the petitioner also filed an another Appeal in C.M.A.No.676 of 1992 on the file of this Court against the Order and Decreetal Order dated 11.10.1991 of this Court made in I.A.No.987 of 1990 in O.S.No.283 of 1988 on the file of the Additional Sub Judge, Pondicherry.

6. In the above C.M.A.No.676 of 1992, the 4th respondent filed a impleading petition. While pending the above issue, the 4th respondent purchased the above said property from Hilango Veeraswami @ Soupramanian on 21.11.1990 and filed the impleading petition in the above said C.M.A as well as A.S. All those cases were clubbed together and this Court by common judgement dated 25.06.2002 allowed the Appeals by holding that the said Hilango Veeraswamy and his wife Padma @ Inba should have filed a regular First Appeal as against the Judgement and Decree passed in O.S. instead of filing the Review Petition and further granted liberty to the Vendor of the 4th respondent namely Hilango Veeraswamy @ Soupramanian and his wife Padma for filing an appropriate Appeal.

7. In compliance of the above said order, the said Hilango Veeraswamy @ Soupramanian and his wife Padma filed the First Appeal before this Court in A.S.No.790 of 2002 and initially the Division Bench of this Court granted an Interim Stay and the same was transferred to learned Principal District Judge, Pondicherry as A.S.No.237 of 2006. After contest, the said A.S was allowed in favour of the 4th respondent.

8. Suppressing the above said developments, the petitioner filed the present writ petition before this Court. So, the learned counsel appearing for the petitioner did not dispute the fact submitted by the learned counsel for the 4th respondent. In view of the

subsequent developments, nothing survives in this writ petition for any further adjudication. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Secretary to Pondicherry,
Chief Secretariat Building,
Pondicherry.
2. The Secretary to Government,
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Anna Nagar, Pondicherry.
3. The Commissioner,
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A.SK(11/06/2019)

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