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W.P.Nos.14854/21 and 11905/22

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

Writ Petition Nos.14854 of 2021
and Writ Petition No.11905 of 2022
& WMP No.11328 of 2022

WP No.14854 of 2021

G.Kumaravel S/o.Govindasamy,
General Secretary,
People Social Movement for Protection of Environment,
No.2, Idayiyanchavadi Road, Mayor Narayanasamy Nagar,
Karuvadikkuppam, Lawspet, Puducherry 605 008.

...Petitioners

Vs.

1.The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar, Boomianpet,
Puducherry 605 005.

2.The Commissioner,
Oulgaret Municipality,
Jawahar Nagar, Main Road,
Boomiyanpet, Puducherry 60 005.



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3. The Chief Town Planner,
Town & Country Planning Department,
Jawahar Nagar, Main Road,
Boomiyanpet, Puducherry 605 005.

4. The Director,
Department of Survey and Land Records,
Government of Puducherry,
Cuddalore Road, Pillaithottam,
Sakthi Nagar, Saram, Puducherry 605 013.

5. The Tahsildar,
East Coast Road, 198 Villianur Road,
Pathukannu, Koodappakkam,
Puducherry 605 509.

6. G.Jayaraj

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, directing the 1st respondent to take action for demolition in respect of the unauthorised deviated construction at R.S.No. 133/1 bearing Plot Nos.113, 114, at Door No.32, 2nd Cross, Sudakar Nagar, Reddiarpalayam Revenue village, Oulgaret Municipality, Puducherry by the 6th respondent based on the Demolition Notice vide No. 1335/ PPA/ JTP (MK)/ Z (R) / 2020/ 11653 dated 17.11.2020 issued by the 1st respondent .

For Petitioner : Mr.M.Gnanasekar
for M/s.P.Ravikumar



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For Respondents : Mr.V.Balamurugane
Government Pleader (Puducherry),
for RR 1 to 5

Mr.B.Balavijayan, for R6

WP No.11905 of 2022

G.Jayaraj

...Petitioner

Vs.

1.The Secretary to Government,
Department of Town and Country Planning,
Government of Pondicherry,
Puducherry.

2. The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar, Main Road,
Boomianpet, Puducherry – 5.

3. G. Kumaravel,
General Secretary,
People Social Movement for Protection of Environment,
No.2, Idayiyanavadi Road,
Mayor Narayanasamy Nagar,
Karuvadikuppam, Lawspet, Pondicherry.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order dated 17.11.2020 vide No. 1335/ PPA/ JTP (MK)/ Z(R)/2020/ 1653 and consequential impugned order dated



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25.03.2021 vide proceeding No. 7255/ PPA/ Z(R)/ 2020/ 2163 passed by the 2nd respondent and quash the same and further direct the 2nd respondent to consider the explanation submitted by the petitioner on 29.03.2021, and pass necessary order over the revised plan approval submitted by the petitioner, duly incorporating the provisions of Pondicherry Country and Town planning Act- 1969 and as per the Puducherry Building by laws and Zoning Regulation-2012 as notified in Part II, Clause 9(viii) Planning Parameters, Table 1 for Ordinary Residential Buildings.

For Petitioner : Mr.M.Gnanasekar
for M/s.P.Ravikumar

For Respondents : Mr.V.Balamurugane
Government Pleader (Puducherry),
for RR 1 & 2

Mr.M.Gnanasekar,
for Mr.P.Ravikumar, for R3

COMMON ORDER

(Order of the Court was delivered by R.SUBRAMANIAN, J.)

In WP No.14854 of 2021, the petitioner seeks issuance of a Mandamus directing the Authorities to take action for demolition of the unauthorised deviated construction in RS. No.133 of Reddiyarpalayam



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Revenue Village, Oulgaret Municipality, Pondicherry, by the sixth respondent based on the demolition notice dated 17.11.2020.

2. It is the grievance of the petitioner that there has been sustained inaction on the part of the Authority in enforcing the Development Control Rules and removal of encroachments. Pending the said Writ Petition, the sixth respondent in the said Writ Petition, viz. Mr.G.Jayaraj, has come up with the Writ Petition in WP No.11905 of 2022 seeking to quash the demolition notice issued by the Pondicherry Municipality.

3. The Commissioner, Oulgaret Municipality, has filed a counter and typed set of papers. It is the claim of the Municipality that the sixth respondent in WP 14854 of 2021, has encroached upon the road and has put up construction in violation of the Planning Permission. A show cause notice has also been issued by the Municipality on 11.11.2022. The order for demolition cannot be questioned and it is for the petitioner in WP No.11905 of 2022 to satisfy the Authorities that there is no deviation or encroachment.



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4. Now that the Authorities have issued a notice on 11.11.2022 in Form A under Section 415(1) of the Pondicherry Municipalities Act, 1973, without going into the rival contentions, we dispose of the Writ Petitions with a direction to the Municipality to proceed with the action in the manner known to law. As far as WP No.11905 of 2022, it is stated that the petitioner has made an Appeal before the Board, it is for him to convince the Board that the construction is as per the sanctioned plan or within the permissible limits. The Municipality can proceed with the eviction of the encroached portion.

5. The Writ Petitions are disposed of with the above directions. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU, J.)
18.11.2022

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To

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Puducherry 605 005.
- 2.The Commissioner,
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- 3.The Chief Town Planner,
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