

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.4740 of 2015
and M.P.No.1 of 2015

Kalpana .. Petitioner/Appellant

Vs.

1.G.Bharathi .. 1st Respondent/3rd Party

2.The Commissioner
Puducherry Municipality
Kamban Kalai Arangam Complex
Puducherry-1. .. 2nd Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 28.10.2014 made in I.A.No.77 of 2012 in M.A.No.1 of 2012 on the file of the Principal Sub-Court, Puducherry.

For Petitioner : M/S.Babu Rangasamy Associates

ORDER

Civil Revision Petition is filed against the fair and decreetal order dated 28.10.2014 made in I.A.No.77 of 2012 in M.A.No.1 of 2012 on the file of the Principal Sub-Court, Puducherry.

2.The revision petitioner herein has purchased a plot in the year 2008. After constructing a house, she erected a compound wall on 19.09.2011 by encroaching upon the public road. Therefore, the second respondent/Puducherry Municipality has issued a notice to the revision petitioner herein under Sections 415 and 416 of the Pondicherry Municipalities Act, 1973 stating that the compound wall erected by the revision petitioner is in unauthorised occupation of municipal property and hence, she has to demolish the compound wall, against which, the revision petitioner has preferred an appeal in M.A.No.1 of 2012. At that time, the first respondent herein has filed an application in I.A.No.77 of 2012 to implead himself as a party to the proceedings stating that due to construction of compound wall, he has no free access to his house. The lower Court, after hearing both sides, allowed the application, against which, the present revision has been preferred.

3.At the time of admission, argument of the learned counsel for the revision petitioner is heard in length.

4.On perusal of the typed set of papers, it reveals that the revision petitioner has purchased plot Nos.9 and 10 in Sudhana's lay

out in the year 2008. She constructed a house and at that time, she has also put up a compound wall. The second respondent/Puducherry Municipality has issued a show cause notice dated 23.11.2011 to the revision petitioner to remove the compound wall stating that the same is in unauthorised occupation of municipal premises and is causing hindrance to the usage of road for public. The revision petitioner has sent a reply dated 22.12.2011 through her counsel stating that the said road does not belong to the Municipality. On 26.06.2012, the Commissioner, Puducherry Municipality has passed an order holding that the construction of the compound wall on the road which is vested with the Municipality is an encroachment and hence, it shall be removed on or before 20.07.2012 and otherwise, it shall be evicted by the Municipality.

5.Challenging the aforesaid order dated 26.06.2012, the revision petitioner has preferred an appeal in M.A.No.1 of 2012. At that time, the first respondent herein has filed an application in I.A.No.77 of 2012 to implead himself as a party to the appeal stating that himself and his family are residing at No.15, Bajanai Madam Street, Thengaithittu, Puducherry-1, for the past 25 years and only five years back, the revision petitioner purchased the plot

near to his house and constructed a house. He further stated that the revision petitioner herein has illegally encroached the public road and erected compound wall on 19.09.2011. Even though the first respondent made an objection, it went on vain. Hence, the first respondent and general public have no free access to the road, due to the encroachment made by the revision petitioner. Therefore, he filed the present application to implead himself as a party to the appeal for its effective adjudication. The lower Court, after hearing both sides, allowed the application by holding that the first respondent/third party had filed W.P.No.30142 of 2011 before this Court to direct the 2nd respondent/Commissioner to remove the illegal construction, which was erected on the public road. This Court had directed the respondent municipality to take action against the alleged encroacher, if any encroachment has been made on the public road, after giving notice to her. During enquiry, they came to know that the revision petitioner has constructed the compound wall by encroaching upon the public road. Under such circumstances, the presence of first respondent/3rd party is necessary for proper adjudication of the appeal, as he is having interest in the property and his right of access to his property has been curtailed.

6.Considering the aforestated circumstances of the case, the lower Court has considered all the aspects in proper perspective manner and came to the correct conclusion. Therefore, the order passed by the lower Court does not suffer any infirmity or illegality and it is hereby confirmed. The civil revision petition deserves to be dismissed and it is hereby dismissed.

7.In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.12.2015

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Index:Yes/No

To

The Principal Sub-Court, Puducherry.

R.MALA,J.

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