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C.R.P.(PD)No.2515 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P(PD)No.2515 of 2017
and CMP.No.11868 of 2017

Nanik Melwani (Deceased)

- 1.Deepak Mirpuri
- 2.Paranthaman
- 3.Vicky M Melwani
- 4.Anup N.Melwani

... Petitioners

VS

- 1.Kalyani K.Saiya
- 2.Naresh Ghanshyamdas
- 3.Suresh Ghansyamdas
- 4.K.Vanaja, Proprietrix
- 5.M/s.Pan Asia Logistics
Represented by Amit
First floor, 1-A, 138 Royapettah High Road
Luz, Mylapore, Chennai-600 004.
- 6.M/s.Sri Bukhari Pir Agencies
Represented by Sheela
First floor, 1-B, 138 Royapettah High Road
Luz, Mylapore, Chennai-600 004
- 7.Rani.V.Mirpuri
- 8.The Chairman
Chennai Metropolitan Development Authority
Thalamuthu Natrajan Building
Egmore, Chennai-600 003.
- 9.The Corporation Commissioner
Corporation of Chennai



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Rippon Building,
Chennai-600 017.

10.T.V.Satyanarayana

11.Ravi Appaswamy

Managing Director

M/s.Appaswamy Real Estates

No.3 Mangesh, T.Nagar,

Chennai 600 017.

.. Respondents

(Cause title and power of Attorney accepted vide order of
Court dated 28.04.2017 by this Court made in CMP.No.4041/2017
& 4042/2017 in CRP.SR.No.67611/2016)

Petition filed under Article 227 of the Constitution of India to set
aside the order passed in I.A.14925 of 2012 in O.S.No.11695 of 2010
allowing the impleading petition filed by plaintiff to implead Respondents
12 to 15 on the file of the learned XII Assistant Judge, City Civil Court,
Chennai.

For Petitioners : Mr.R.Parthasarathy

For Respondents : Ms.K.Ashwini Devi (for R9)

Mr.G.Veerapathiran (for R1)

No Appearance
(for R2, R3, R8, R10 & R11)

R4 to R7 – Not ready notice

ORDER

The plaintiff came forward with a suit stating that he is residing in
a contiguous zone and his access to the property is through a staircase.

Pending the suit, he moved an application for interim injunction. The said



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application was dismissed. After the dismissal of the I.A., the CMDA and Corporation had accorded permission for demolition of the staircase, veranda and for obliteration of the common passage. The said development took place pending the suit. Therefore, an application was taken out to implead CMDA and Corporation as party defendants to the suit in order to work out the remedies available to the plaintiff, in case he succeeds in the suit.

2.I heard Mr.R.Parthasarathy, learned counsel appearing for the petitioners, Mr.G.Veerapathiran, learned counsel appearing for the 1st respondent and Ms.K.Ashwini Devi, learned counsel appearing for the Corporation of Chennai. The other respondents though served had not entered appearance.

3.I am not able to appreciate as to how on impleading of the Corporation and CMDA, the defendants are anyway aggrieved. They claim the right for obliteration of the passage, demolition of the veranda and staircase only through the order that has been passed by the Corporation and CMDA.

4.It is the case of the plaintiff that the statutory authorities did not hear him before passing the order and therefore, he would plead that they will have to be made as parties, because he will be in a position to prove



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that the property is a contiguous one and that the staircase is the only access to his property. It is pertinent to point out here that neither of the statutory bodies, the CMDA nor Corporation have taken it averse and have preferred a revision before this Court.

5.It is only the defendants 1 to 3, who have preferred this revision. It is for the plaintiff to choose his opponents and not for the defendant to dictate against whom the plaintiff should fight. The plaintiff has a grievance on account of the facts, CMDA and Corporation have permitted obliteration of the passage, demolition of the veranda and staircase. The said development having taken place pending the proceeding.

6.Hence, I feel the view of the learned trial Judge that they are necessary parties to the proceeding need not be interfered with. This civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2023
(2/2)

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No
vs

To
The XII Assistant Judge,
City Civil Court, Chennai.



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V. LAKSHMINARAYANAN,J.

VS

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(2/2)