

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 26TH DAY OF JULY 2002

BEFORE

THE HON'BLE MR.JUSTICE M.F.SALDANHA

CIVIL REVISION PETITION NO.1544/2002

BETWEEN:

**Smt.Radhu Hengsu,
W/o late Venkappa Shetty,
Aged 67 years,
R/o Near Dhota House,
Near Pump House,
Padukodi Village,
Mangalore Taluk,
D.K.DISTRICT.**

.. PETITIONER

(By Sri K.M.Nataraj, Adv.)

AND :

**Sri Chandra Shetty,
S/o Shantha Shetty,
Aged 50 years,
R/o Near Pump House,
Durga Nivas,
Padukodi Village,
MANGALORE TALUK,
D.K.DISTRICT.**

.. RESPONDENT

(By Sri O.Shivarama Bhat, Adv.,)



This Civil Revision Petition is filed u/s 115 CPC against the order dated 26-2-2002 passed in MA No.66/2001 on the file of the I Addl.Civil Judge (Sr.Dn.) & CjM, Mangalore, dismissing the appeal and confirming the order dated 6-10-2001 passed on I.A.II in OS NO.408/2001 on the file of the III Addl.Civil Judge (Jr.Dn.), Mangalore, DK rejecting IA No.II filed u/o 39 R 1 and 2 CPC for TI.

This petition coming on for Orders this day the court made the following :-

ORDER

I have heard the learned Advocates on both sides on merits. The serious allegations against the petitioner are to the effect that after the order was passed by this court on 28-3-2002, that he is alleged to have demolished the compound wall of the Respondent. Undoubtedly, there is a dispute pending in respect of the access road or pathway which measures approximately 7feet 11 inches in width and the Trial Court will take care of the dispute after hearing the parties and passing appropriate orders. As of now, I consider it appropriate to permit the defendant to reconstruct the



compound wall which was demolished but, in doing so, care will have to be taken that it is built in its original location and that it does not reduce the original width of the approach pathway. Also, it is unfortunate that due to these disputes, the relationships between the parties have turned hostile and it is necessary therefore to direct that the status-quo order shall continue until the disposal of the suit. However, if there is any urgent need to vary or modify this order then it is open to the parties to reapproach the Trial Court provided however that the need is found to be absolutely genuine and cogent. The Trial Court will not entertain any frivolous applications. Also, since due to the hostility between the parties, it appears that the Plaintiff has adopted a rather aggressive posture, it is necessary for this court to sound a note of warning that under normal circumstances, I would have instituted contempt proceedings which this court will be forced to do if there are any further incidents between the parties.



With these directions, the Civil Revision petition to stand disposed of. It is necessary for this court to clarify the costs payable by the petitioner. The costs are quantified at Rs.500/- to be deposited by the petitioner in the Trial Court within four weeks from today. The said amount to be paid over to the Respondent.

Sd/-
Judge

NV