



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (NPD) (MD) No.2450 of 2017

Maria Anthony

...Petitioner/Petitioner

vs.

1)Arokiyam  
2)Dhiraviyam  
3)Jeyamary  
4)Kuzhanthaisamy  
5)Santhiyagu  
Viyakulam(Died)  
Michei(Died)  
6)Savarimuthu  
7)Viyakulam  
8)Soosairaj  
9)John Thomas  
10)Arokiyarmy  
11)Sagayarmy  
12)Anthony  
13)Selvi  
14)Anjali

... Respondents

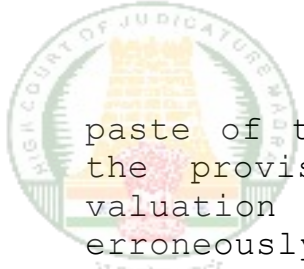
Petition filed under Article 227 of the Constitution of India, to issue direction to the learned Trial Court to decide the I.A.No.422 of 2017 in O.S.No.34 of 2012 on the file of the learned District Munsif, Mudukulathur on merits and in accordance with law within the time stipulated by this Hon'ble Court by dispensing with notice to the respondents therein.

For Petitioner : Mr.R.Narayanan

### ORDER

This revision petition has been filed for a direction to the Trial Court to decide I.A.No.422 of 2017 in O.S.No.34 of 2012 on the file of the learned District Munsif, Mudukulathur on merits and in accordance with law within the time stipulated by this Court by dispensing with notice to the respondents therein.

2.Learned counsel for the petitioner would submit that in the <https://hcservices.ecourts.gov.in/hcservices/> decree of the Trial Court, there is a typographical mistake and error arising from accidental slip which seems to be copy and



paste of texts inconsistent to the judgment. According to him, the provision of law relating to payment of court fees in valuation slip of the decree passed by the Trial Court was erroneously typed as Section 33(2) of the Tamilnadu Court Fees and Suit Valuation Act instead of Section 33(8) of the Act which according to the petitioner is accidental slip and that can be corrected at any time.

3. Learned counsel for the petitioner further contended that the above suit is for redemption of mortgage which is in character of usufructuary mortgage and the amount due declared by the judgment of the Trial Court is paid/deposited into the court and hence, there is no due from the plaintiff/mortgagor. Therefore, the decree is to be passed in terms of Order 34 Rule 9 CPC considering the format in No.7B and 7F of 'Appendix D - Decrees' of CPC with applicable clauses only and striking out other clauses, thus, clauses 3 to 5 in the decree passed by the Trial Court are mistakenly typed as copy and paste text in other format of mortgage decrees and needs correction.

4. According to the learned counsel, the mistakes are clerical and arithmetical and the errors are arising out of accidental slip and therefore, the correction does not need any further adjudication. He has further submitted that the Trial Court becomes functus officio after passing judgment and decree in the suit and the bar to amend the judgment and decree or order under Section 152 CPC is limited to clerical and arithmetical mistakes and does not need any adjudication. Therefore, he prayed direction for early disposal of the above I.A.No.422 of 2017 dispensing with the notice to the respondents.

5. Since it is a petition for early disposal of I.A.No.422 of 2017, no notice is necessary to the respondents, if the mistake is only arithmetical or clerical which occurred accidentally.

6. Therefore, considering the circumstances of the case, a direction is issued to the learned District Munsif, Mudukulathur, to dispose of I.A.No.422 of 2017 in O.S.No.34 of 2012 by dispensing with the notice to the respondents if the mistake is only arithmetic or clerical error arising out of accidental slip, within a period of one month from the date of receipt of a copy of this order.

With the above direction, this Civil Revision Petition is disposed of. No costs.

sd/-

Assistant Registrar (Crl.side)

/True copy/



To

The District Munsif,  
Mudukulathur.

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+1 CC to Mr. R.NARAYANAN, Advocate SR.No.92993

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