



WEB COPY



C.R.P.(PD).No.3090 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

C.R.P.(PD).No.3090 of 2021

and

C.M.P. No.21732 of 2021

Mallika

... Petitioner

Versus

1.Manickam

2.Vediyappan

3.Sudha

... Respondents

**Prayer :** Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 01.11.2021 made in I.A.No.292 of 2021 in O.S.No.100 of 2014 passed by the District Munsif Court, Pappireddipatty, Dharmapuri.

For Petitioner : Mr. J. Pradeep

### **ORDER**

This Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the amendment application filed by the petitioner.



C.R.P.(PD).No.3090 of 2021

WEB COPY

2. The petitioner herein filed a suit for mandatory injunction directing the respondents to remove the superstructure put up in the suit property and to bring back the suit property to its original position.

3. In the suit, an Advocate Commissioner was appointed by the Trial Court and he measured the property with the help of the Surveyor and filed a report mentioning the exact area under the possession of the respondents. Based on the said report, the petitioner herein filed an amendment application seeking to include the prayer for declaration of title in respect of the portion found to be under occupation of the respondents. The said amendment application was dismissed by the Court below on the ground that the new prayer for declaration was wrongly valued under Section 25(d) of the Tamil Nadu Court Fees and Suit Valuation Act, 1965. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel for the petitioner by taking this Court to the details of the amendment sought for by the petitioner submitted that



C.R.P.(PD).No.3090 of 2021

the new prayer was valued by the petitioner rightly under Section 25(b) of the Tamil Nadu Court Fees and Suit Valuation Act, and the Court fees was paid on half of the market value. However, while mentioning the relevant provisions of the Court fees Act, it was wrongly mentioned as Section 25(d) of the Act, instead of Section 25(b) of the Act. Therefore, the learned counsel for the petitioner requests this Court to allow the amendment application. The learned counsel also undertakes to incorporate the correct provisions of law in the valuation column as Section 25(b) of the Tamil Nadu Court Fees and Suit Valuation Act, instead of Section 25(d) of the said Act. The said statement is recorded.

5. The suit is filed for mandatory injunction and to remove the superstructure put up by the respondents as stated supra. After filing of the report of the Advocate Commissioner by mentioning the area in occupation of the respondents, the petitioner wants to include the prayer seeking declaration of title over the area of the suit property under the occupation of the respondents. The new prayer was properly valued at half of the market value as per Section 25(b) of the Tamil Nadu Court Fees and Suit Valuation Act. However, in the amendment application, the provisions



C.R.P.(PD).No.3090 of 2021

WEB COPY  
Act.

of law was wrongly mentioned as Section 25(d) instead of 25(b) of the

6. The learned counsel for the petitioner undertakes to incorporate the correct provisions of law as Section 25(b) instead of Section 25(d) of the Tamil Nadu Court Fees and Suit Valuation Act, in the valuation column at the time of filing of amendment plaint. The said undertaking is recorded by this Court.

7. Since the new prayer sought to be included by way of filing amendment application does not change the fundamental character of the suit, this Court is inclined to allow the amendment application by setting aside the order of the Trial Court.

8. Accordingly, this Civil Revision Petition is allowed by setting aside the impugned order of the Court below and the petitioner is permitted to carry out the amendment by incorporating the correct provisions of law as Section 25(b) of the Tamil Nadu Court Fees instead of Section 25(d) of the said Act in the valuation column of the amended



C.R.P.(PD).No.3090 of 2021

plaint. With this clarification amendment petition stands allowed.

Consequently, the connected miscellaneous petition is also closed. No costs.

**21.02.2024**

Index : Yes / No  
Speaking order : Yes / No  
Neutral Case Citation : Yes / No

klr

To:

1.The District Munsif Court, Pappireddipatty, Dharmapuri.



WEB COPY



C.R.P.(PD).No.3090 of 2021

**S. SOUNTHAR. J.,**

klt

C.R.P.(PD).No.3090 of 2021  
and  
C.M.P. No.21732 of 2021

21.02.2024