



WEB COPY

CRP No. 1537 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 11-03-2026**

CORAM

**THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

**CRP No. 1537 of 2021**

**and**

**C.M.P.No.12053 of 2021**

D. Sugumar  
S/o. Late A.Duraisamy,  
No.36/6, Kamarajar St,  
Thiruvalluvar Salai,  
Vanniya Theynampet, Chennai.

..Petitioner(s)

Vs

Mr.J. Mohan  
S/o. Late.V.Jayaraman, Flat No.10,  
Ashwaroodha Apartment ,  
New No.330, T.T.K. Road,  
Ambujammal St, Alwarpet,  
Chennai - 600 018

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Fair and Final order passed in IA.No.5233/2016 in OS No.615/2016 on the file of IV Assistant Court (FAC),II Assistant Court, City Civil Court, Chennai dated 13.12.2019.

|                    |                        |
|--------------------|------------------------|
| For Petitioner(s): | Mr.A. Sundara Vadhanan |
| For Respondent(s): | Mr.K.Chandrasekaran    |

### **ORDER**

The Civil Revision Petition has been filed to set aside the Fair and Final order passed in IA.No.5233/2016 in OS No.615/2016 on the file of IV Assistant Court (FAC), II Assistant Court, City Civil Court, Chennai dated 13.12.2019.



2. Heard Mr.A.Sundara Vadhanan, learned counsel for the petitioner and Mr.K.Chandrasekaran, learned counsel for the respondent.

WEB COPY

3. The learned counsel for the petitioner would submit that he had filed a suit in O.S.No.615 of 2016 for the relief of declaration to declare the sale agreement dated 06.10.2010, registered as Document No.831 of 2010, as not valid in the eye of law and not enforceable against him, and also for a consequential declaration to declare the Memorandum of Understanding entered between him and the respondent on 16.02.2011 as not valid and not binding on him.

4. In the said suit, the respondent herein had taken out an Interlocutory Application with a prayer that the suit had not been properly valued as per the provisions of Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act (hereinafter referred to as the Act), which was stoutly opposed to by the petitioner by contending that the suit could only be valued as done by the petitioner under Section 25(d) of the said Act. However, the Court below, without considering the claim made by the petitioner, had held that the suit could only be valued under Section 40 and that the market value of the property as on the date of filing of the suit would be the basis upon which the Court fee should be paid, and allowed the application filed by the respondent.



5. He would submit that the suit had also been dismissed for non-payment of the Court fee and that he had taken steps to restore the suit, which is kept pending disposal, subject to the result of the present revision petition. He would submit that the suit had not been filed with regard to the property but had been filed only in relation to the documents and their enforceability, and therefore the same is not capable of being valued. Hence, the petitioner had valued the suit by invoking the provisions of Section 25(d) of the Act.

6. Therefore, the finding of the Court below that only Section 40 would be applicable and that the payment of court fee should be on the market value of the property is wholly improper. He would further submit that the respondent has not parted with the entire sale consideration with regard to the property, which is also admitted by him. The petitioner cannot be mulcted with the higher liability of valuing the suit under Section 40 and therefore he seeks indulgence of this Court to set aside the order impugned in this revision petition.

7. Countering his submissions, Mr. K.Chandrasekaran, learned counsel for the respondent, would contend that the suit had to be necessarily valued only under Section 40 of the Act, as the prayer that has been sought by the petitioner in the plaint is to declare the documents as not valid and not enforceable against the plaintiff / the petitioner herein.



8. Therefore, the reliance placed upon Section 25(d) of the Act by the petitioner is wholly improper, as the said provision cannot be applied to the facts and circumstances of the present case. Hence, he seeks dismissal of the revision.

9. I have considered the submissions made by the learned counsel appearing on either side and perused the materials placed on record.

10. The issue involved in this revision petition is as to whether the provisions of Section 25(d) or Section 40 of the Act are applicable to the case and what would be the Court fee that would be payable by the petitioner.

11. Section 25(d) of the Act relates to valuation of suits for declaration, where a declaratory relief has been sought for with or without consequential relief. Sub-clause (d) relates to a suit, where the subject-matter of the suit is not capable of valuation under clauses (a) to (c) of the said provision. Section 40 of the Act relates to suits for cancellation of decrees etc., including the documents. Even though the prayer in the suit is only for a declaration, in effect it is a suit seeking to declare the rights created under the documents in respect of an immovable property to be not enforceable.



12. Section 40 of the said Act reads thus:

***“40. Suits for cancellation of decrees, etc.***

*(1) In a suit for cancellation of a decree for money or other property having a money value, or other document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest in money, movable or immovable property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to be--*

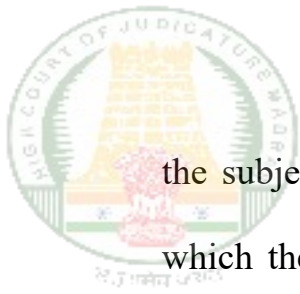
*if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other document was executed;*

*if a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property.*

*(2) If the decree or other document is such that the liability under it cannot be split up and the relief claimed relates only to a particular item of property belonging to the plaintiff or to the plaintiff's share in any such property, fee shall be computed on the value of such property or share or on the amount of the decree, whichever is less.*

*Explanation.-- A suit to set aside an award shall be deemed to be a suit to set aside a decree within the meaning of this section.”*

13. A reading of the aforesaid provision would indicate that where the suit is for cancellation of a decree for money or other property having a money value, or other document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest in money, movable or immovable property, fee shall be computed on the value of



the subject-matter of the suit namely the amount or value of the property for which the decree was passed or other document was executed or the amount under the document.

14. In the present case, it is admittedly a document with a face value, which is sought to be declared as null and void in respect of immovable properties. Even though the suit has been filed for a declaration to declare the same as null and void and not enforceable, in effect it seeks to extinguish a right created in favour of another, thereby setting aside the said document. When Section 40 of the Act envisages that the Court fee payable is on the value of the said amount, the Court below, even though rightly applied the provisions of Section 40 to value the suit, ought not to have directed the Court fee to be payable on the market value of the property rather than on the value of the amount which is the face value of the said document.

15. Therefore, this Court is of the view that with regard to prayer No.1 in the suit, the valuation and Court fee should be made on the face value of the document, which is sought to be declared as not valid in the eye of law and not enforceable, by applying Section 40 of the Act.



16. With regard to the second prayer, the same could be valued by applying Section 25(d) of the Act.

WEB COPY

17. For the aforesaid reasons, the impugned order would have to be interfered with at least with regard to the directions issued by the Court below.

18. In fine, the Civil Revision Petition stands partly allowed and the impugned order dated 13.12.2019, directing the petitioner to value the suit on the market value of the property is set aside and the following directions are issued:

a) The petitioner/plaintiff shall value the suit with regard to the first prayer, namely in relation to Document No.831 of 2010, under Section 40 of the Act and shall pay Court fee on the consideration that had been passed under the said document.

b) With regard to the second prayer, the same shall be valued under Section 25(d) of the Act.

c) The Court fee shall be paid by the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order and on payment of such Court fee, the application for restoration shall stand considered.



d) The petitioner shall also carry out necessary amendments to paragraph No.11 of the plaint relating to Court fees by filing a necessary application for the same.

WEB COPY

19. No costs. Consequently, connected miscellaneous petition is closed.

**11-03-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

kak

To

The IV Assistant Court (FAC),

II Assistant Court,

City Civil Court,

Chennai.



WEB COPY

CRP No. 1537 of 2



**K.KUMARESH BABU, J.**

kak

**CRP No. 1537 of 2021**

**11-03-2026**