

A.No.5149 of 2019

in

C.S.No.922 of 2002

N.Sathish Kumar, J.

This application has been filed to condone the delay of 19 days in representing the application filed to set aside the exparte Order passed in the suit and for filing written statement.

2. It is the contention of the applicant that he was set exparte in the suit and the same was not communicated to him by the earlier counsel and he came to know of the exparte Order only recently. Therefore, there is a delay of 19 days in representing the application filed to set aside the exparte Order and to file written statement.

3. Whereas, the learned counsel for the respondent contended that there is almost 6000 days delay in filing the written statement and to file an application to set aside the exparte Order. He further submitted that the applicant is aware of the proceedings and he has filed another suit in C.S.No.14 of 2003 and obtained an interim Order in the said suit, which was subsequently vacated at the instance of the respondent.

4. The applicant has not filed the written statement for more than 6000 days and the factum of filing another suit and obtaining interim Order and subsequent vacation of the Order is not disputed by the applicant.

5. This application has been filed on the ground that there is only 19 days delay in representing the application filed to set aside the exparte Order passed against the petitioner. As per the Original Side Rules, the written statement has to be filed within 6 weeks and the same has not been done and almost 6000 days delay has occurred, which has not been explained. There must be sufficient reasons to condone the delay in filing the written statement. Except stating that the previous counsel has informed about the proceedings, no other sufficient reason has been given in the affidavit. Further, one cannot simply blame the counsel for not informing about the proceedings. It is the duty of the litigant to watch the proceedings. The conduct of the applicant has to be taken note of. Particularly, subsequent to the suit, he has filed yet another suit in C.S.No.14 of 2013 against the plaintiff and prosecuting the suit. Therefore, it cannot be said that he has no knowledge about the proceedings. Hence, I do not find any merits in this application.

6. Accordingly, this application is dismissed. No cost.

Post the suit on 19.09.2019 for arguments.

13.09.2019

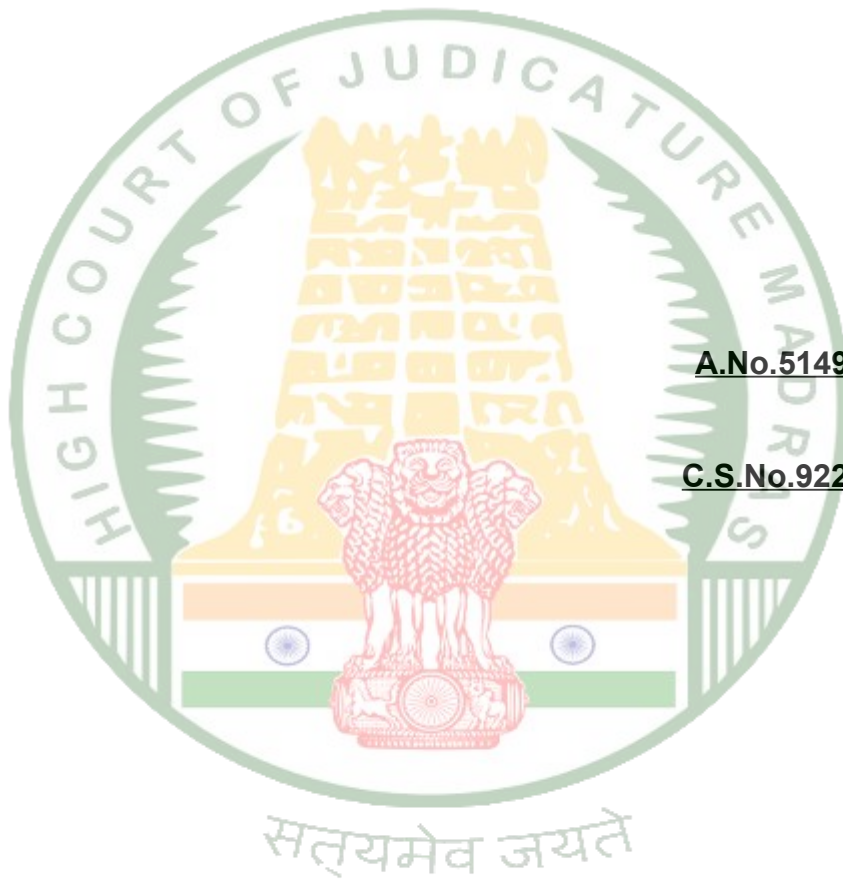
VRC



WEB COPY

N.Sathish Kumar, J.

VRC



A.No.5149 of 2019

in

C.S.No.922 of 2002

WEB COPY

13.09.2019