

A.No.5414 of 2019
in C.S.No.279 of 2018

M.SUNDAR.J.,

Mr.M.V.Swaroop, learned counsel on record for applicant/plaintiff and Ms.Durga V. Bhatt, learned counsel on record for first respondent/first defendant, who is also representing the counsel on record for second respondent/second defendant are before this Court.

2. This suit was withdrawn on 07.08.2018 pursuant to an endorsement made in this regard by learned counsel for applicant/plaintiff.

3. Today, aforesaid application has been taken out by the applicant / plaintiff, stating that the suit was withdrawn, pursuant to a settlement arrived at between the parties to lis or in other words, saying that the suit was sought to be dismissed as settled out of Court.

4. Both learned counsel submit that the suit was settled out of Court by way of a settlement arrived at between the parties at lis. It is also submitted by both sides that no evidence was let in.

5. As the aforesaid aspect of the matter had not been articulated in the endorsement at the time of withdrawal, applicant / plaintiff's

request for refund of Court fee ran into rough weather initiating the instant application. To be precise, plaintiff's request for refund in accordance with Section 69 of Tamil Nadu Court Fees and Suits Valuation Act, 1955 ran into rough weather necessitating instant application.

6. In the light of the undisputed common submission made by both sides that the suit was settled out of Court, the judgment/decreed dismissing the suit as withdrawn i.e., judgment/decreed dated 07.08.2018, will now stand modified by addition of one paragraph i.e., paragraph 5, which will read as follows:

Learned counsel on both sides submit without any disputation or disagreement that the suit was settled out of Court or in other words, a out of Court settlement was arrived at between the parties. Therefore, this suit is dismissed as settled out of Court. Plaintiff will therefore be entitled to refund of Court fee in accordance with Section 69 of Tamil Nadu Court Fees and suits Valuation Act, 1955.

This application is allowed and ordered on above terms.

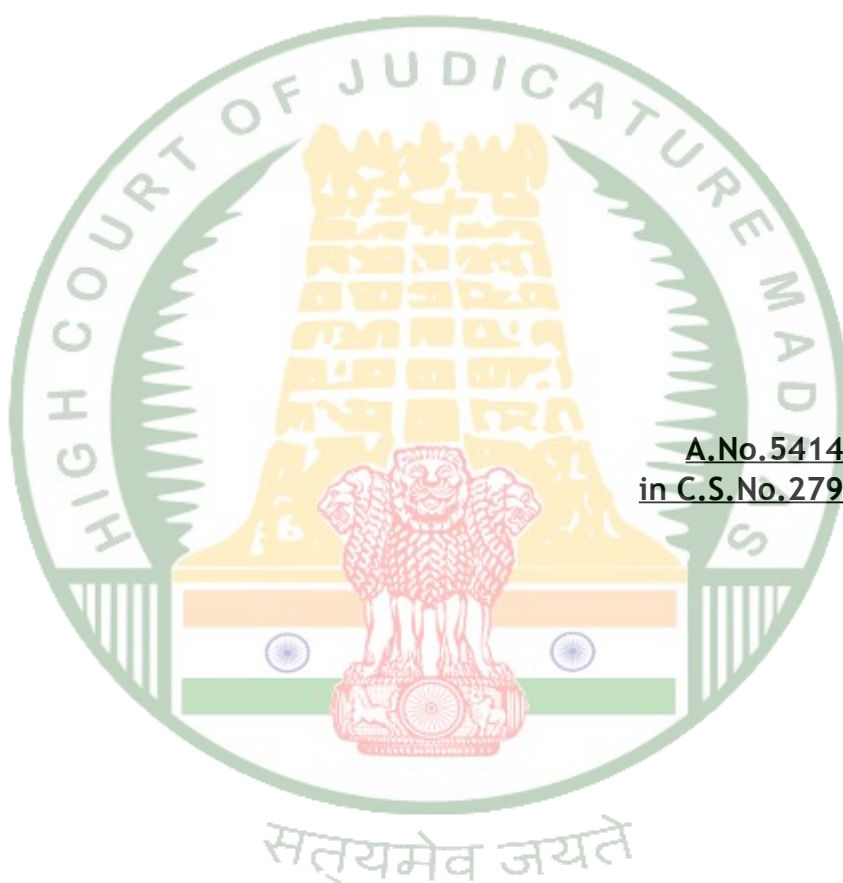
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