

**A.No.8363 of 2019
in
C.S.No.344 of 2014**

SENTHILKUMAR RAMAMOORTHY, J.

This application is filed to condone the delay of 1722 days in filing the written statement in C.S.No.344 of 2014.

2. I heard the learned counsel for the applicant/second defendant and the learned counsel for the respondents 1 to 3/plaintiffs.

3. The learned counsel for the applicant submitted that the case papers were mixed up with other files and that the parties were also engaged in contesting other cases such as O.S.No.5387 of 2011. Consequently, he submits that there is a delay in filing the written statement but the said delay is not due to negligence or recklessness.

4. In response, the learned counsel for the respondents/plaintiffs submitted that the reasons stated for requesting condonation of delay are not valid. In support of his submission, the learned counsel relied upon a recent judgment of the Hon'ble Supreme Court in **M/s.SCG**

CONTRACTS INDIA PVT. LTD., V. K.S.CHAMANKAR INFRASTRUCTURE PVT. LTD., and in particular, paragraph – 8 thereof. Therefore, he submitted that this application is liable to be dismissed.

5. I considered the submissions of the learned counsel and examined the affidavit and additional affidavit in support of the application.

6. The applicant has stated that the parties were contesting other legal proceedings such as O.S.No.5387 of 2011 and RCOP proceedings and also that the case papers were mixed up with other bundles in the Advocate's Office.

7. These explanations may not be wholly satisfactory; nonetheless, this is a suit for partition and the applicant/second defendant should be provided with an opportunity to contest the same on merits. The judgment that was relied upon by the learned counsel for the respondents is in the context of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, which is not applicable to this dispute. Even otherwise, the

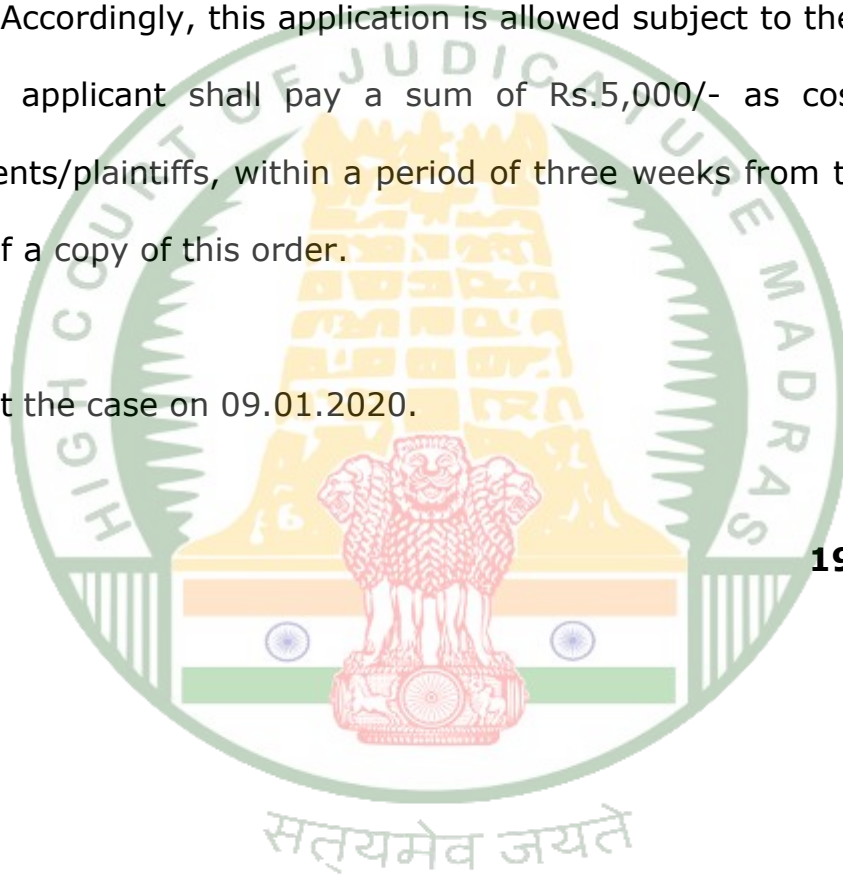
concept of sufficient cause is an elastic concept and has to be applied based on the facts and circumstances of each case. Accordingly, I am of the view that the delay is liable to be condoned albeit on terms.

7. Accordingly, this application is allowed subject to the condition that the applicant shall pay a sum of Rs.5,000/- as costs to the respondents/plaintiffs, within a period of three weeks from the date of receipt of a copy of this order.

List the case on 09.01.2020.

19.12.2019

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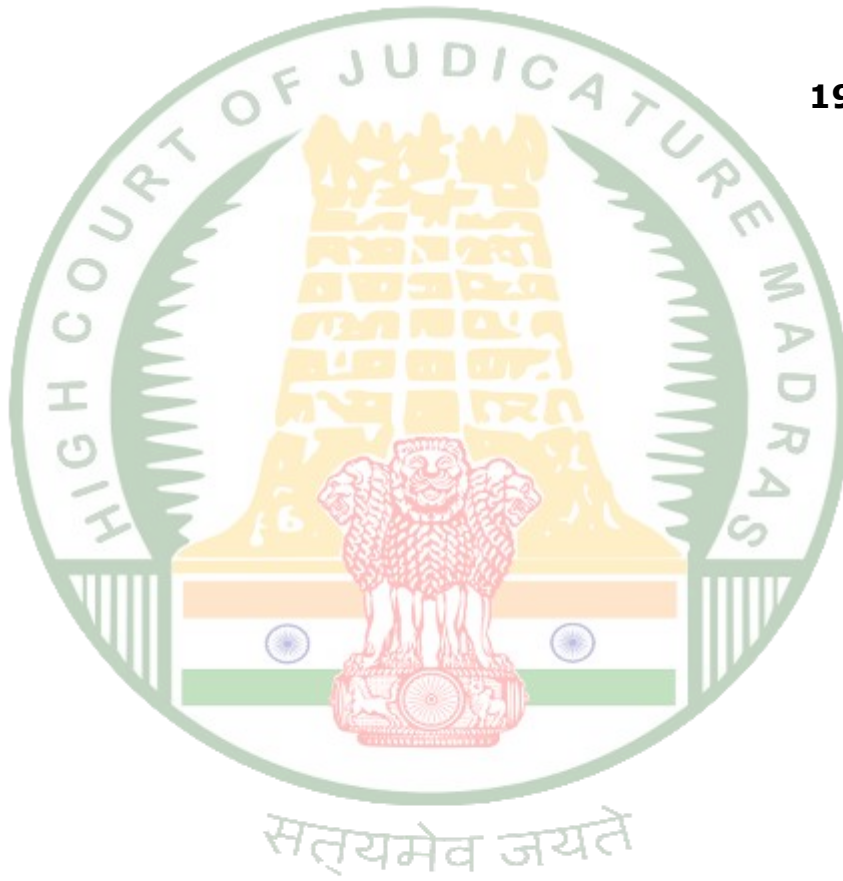


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