

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 17.07.2019
PRONOUNCED ON : 30.07.2019
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
AND
THE HONOURABLE MRS.JUSTICE HEMALATHA

C.M.P.No.23051 of 2018
in
Rev. Appl. SR81895 of 2017

M/s.Polyene General Industries Pvt. Ltd.,
A11 and A12, Industrial Estate,
Guindy, Chennai - 600 032.
Represented by its Managing Director
Mr.M.Narayan ... Petitioner

Vs

M/s. Great Western Industries Limited,
No.1, Alsa Windsor,
4, Kothari Road, Chennai - 600 004.
Represented by its Director
Mr.M.Narayanan ... Respondents

Prayer in C.M.P.No.23051 of 2018: Civil Miscellaneous Petition filed under Section 66 (1) of the Tamil Nadu Court Fees and Suit Valuation Act 1955 praying to order for refund/return of court fee amount of Rs.18,200/- paid in the review Application SR.81895 of 2017 in the name of the Review Applicant.

Prayer in Review Application: Review Application filed under Order XXXXVII Rule 1 & 2 read with Section 114 of C.P.C praying to review the order of dismissal by setting aside the Judgment and Decree dated 31.07.2017 in O.S.A.No.178 of 2017 passed by the court and original side appeal filed under order XXXVI Rule 1 of OS Rules read with clause 15 of the Letters patent praying against the Judgment and decree dated 22.03.2017 passed in CS.No.112 of 2009, and filed under order IV Rule 1 and 2 of the original side Rules read with order VII Rule(1) of CP praying this court to pay the plaintiff a sum of Rs.32,82,344/-together with further interest on the above amount at 24% p.a from the date date of suit till the date of realization and for costs.

For Petitioner : Mr.K.K.Muralitharan
Amicus Curiae : Mr.V.Lakshmi Narayanan

O R D E R

[Order of the Court was made by ABDUL QUDDHOSE, J.]

The point for consideration in this matter is whether under Section 66 of the Tamil Nadu Court Fees and Suits valuation Act, 1955, refund of Court fees can be granted when a review petition filed under Order XLVII CPC is rejected on the ground of delay in its representation.

2. The review application SR.81895 of 2017 has been filed by the petitioner seeking refund of court fees under Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. The petitioner's appeal O.S.A.No.178 of 2017 was dismissed by the Division Bench of this Court on 31.07.2017. Thereafter, the petitioner filed a review application viz., Rev.Appl. SR81895 of 2017 on 20.10.2017 within the prescribed period to review the judgment and decree dated 31.07.2017 passed in O.S.A.No.178 of 2017. Even though the said review application was filed within the prescribed period, the said review application was returned by the Court Registry on account of certain defects. But the petitioner represented the review petition with a delay of 178 days.

3. CMP.No.10362 of 2018 was filed by the petitioner in review application SR81895 of 2017 to condone the delay of 178 days in representing the application to review the judgment and decree dated 31.07.2017 passed in O.S.A.No.178 of 2017. By order dated 21.08.2018, this Court dismissed CMP.No.10362 of 2018 filed by the petitioner in review application SR81895 of 2017 as no proper reasons were given by the petitioner to condone the delay of 178 days in representing the review application. After the dismissal of CMP.No.10362 of 2018, the instant application viz., CMP.No.20351 of 2018 in review application SR81895 of 2017 has been filed by the petitioner under Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 seeking refund of court fees paid in the review application on account of dismissal of the application seeking to condone the delay of 178 days in representing the application for review.

4. This Court has perused and examined Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. Since the said section deals with refund of court fees in cases where a plaint or memorandum of appeal was rejected on the ground of delay in its representation and does not specifically refer to review petitions, a doubt crept in the mind of this Court as to whether Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 applies to review petitions also. In view of

the said doubt, the court felt it necessary to appoint an amicus curiae and accordingly, Mr.V.Lakshmi Narayanan, learned Advocate was appointed as Amicus Curiae to assist the court in this Matter. Only in cases where a judgment is reversed or modified pursuant to a review application, court fees paid for the review petition are permitted to be refunded under Section 68 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. But in the instant case, due to the rejection of the delay in representation application even before the numbering of the review petition, the review petition was rejected. Insofar as refund of court fees in appeals are concerned under Section 66 of the Act, refund of court fees is permissible, when the delay in representation of the appeal has been rejected. But, for a review petition, there is no specific provision for refund of court fees when the application for delay in representing the review petition is rejected. We need to now examine as to whether Sections 66 of the Act also apply to review petition.

5. Heard, Mr.K.K.Muralitharan, learned counsel for the petitioner and Mr.V.Lakshmi Narayanan, learned Amicus Curiae appointed by this Court.

6. Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, reads as follows:

"66. Refund in cases of delay in presentation of plaint, etc.- (1) Where a plaint or memorandum of appeal is rejected on the ground of delay in its re-presentation, or where the fee paid on a plaint or memorandum of appeal is deficient and the deficiency is not made good within the time allowed by law or granted by the Court, or the delay in payment of the deficit fee is not condoned and the plaint or memorandum of appeal is consequently rejected, the Court shall direct the refund to the plaintiff or the appellant, of the fee paid on the plaint or memorandum of appeal which has been rejected.

(2) Where a memorandum of appeal is rejected on the ground that it was not presented within the time allowed by the law of limitation, one-half of the fee shall be refunded."

As seen from Section 66, it refers only to a plaint or memorandum of appeal but does not refer to review petitions.

7. The court fees paid for appeals falls under Section 16 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. Section 16 of the Act reads as follows:

"16.Fee payable on appeals, etc.- The provisions of Section 10 to 14 relating to the determination and levy of fee on plaints in suits

shall apply mutatis mutandis to the determination and levy of fee in respect of a memorandum of appeal, cross-objection or other proceeding in second appeal or in an appeal under Letters patent."

8. Insofar as the court fees for petitions, applications etc, the same is payable under Section 17 of the Act, which reads as follows:

"17.Fee payable on petitions, applications, etc.- The provisions of Sections 10 to 14 shall apply mutatis mutandis to the determination and levy of fee in respect of petitions, applications and other proceedings in Courts in the same way as they apply to the determination and levy of fee on the plaints in suits."

9. The instant case, being a review petition, the court fees paid by the petitioner will fall under Section 17 of the Act as Section 16 deals only with appeal, cross objection or other proceeding in Second Appeal or in an appeal under the Letters patent. The provisions of section 10 to 14 shall also apply mutatis mutandis to section 17 which applies to petitions, applications and other proceedings in court which will not fall under Section 16. Therefore, the valuation of court fees under Section 16 of the Act applicable for appeals is the same as that for the valuation of court fees under Section 17 which applies to review as both the valuation depends upon the valuation of the plaints in the suits. However, for a review petition, court fee payable under Article 6, is half of the court fee paid in the suit.

10. Section 3(1) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 defines an appeal and it says that an appeal includes a cross-objection. Therefore, the definition of an appeal under the Tamil Nadu Court Fees and Suits Valuation Act is an inclusive definition and is not an exclusive one. This being the case, we need to examine whether a review application can also fit under the definition of appeal as defined under Section 3 (i) of the Tamil Nadu Court Fees and Suits Valuation Act.

11. Section 114 of the Code of Civil Procedure defines a review and it reads as follows:

"114.Review.-Subject as aforesaid, any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes,
may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit."

12. A review is filed only before the Court which passed the judgment which is the subject matter of the review. Therefore, it is a continuation of the proceedings in which a judgment has been passed which is sought to be reviewed. In the instant case, the review is a continuation of the appellate proceedings in O.S.A.No.178 of 2017 as the review application has been filed only to review the judgment passed in the appeal O.S.A.No.178 of 2017 before the same court.

13. An application for review is filed under Order XLVII CPC. As per Rule 3 of the said order, the provisions as to the form of preferring appeals shall apply mutatis mutandis to applications for review. Therefore, the procedure for filing review is akin to filing of appeal.

14. We need to now examine as to whether Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 also applies to review petitions and whether the Court is empowered to grant refund of court fees under Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955, when the delay in representation of review application has been rejected by the Court. It was brought to the notice of this Court by Mr.V.Lakshmi Narayanan, the learned Amicus Curiae that in view of the Full Bench Judgment of Madras High Court in the case of Official Receiver, Coimbatore vs. S.A.Ramasamy Gounder and others reported in AIR 1980 (MAD) 269 inherent powers under Section 151 of the Code of Civil Procedure cannot be invoked by this Court for refund of court fees, de hors the situation contemplated under the Tamil Nadu Court Fees and Suits Valuation Act, 1955. The relevant portion of the full bench judgment of Madras High Court referred to supra is extracted hereunder:

"20.As already stated, the grant of a certificate that the court-fee stamps though defaced have not been utilized cannot be taken to be in exercise of a judicial power. Such a certificate can always be obtained either by the party or by the revenue authorities, to whom the party approaches for refund of the court fees from the Registrar or other ministerial officers of court. We do not see how the inherent power under Section 151 C.P.C., could be invoked for performing a ministerial act. Further, by the issuance of such a certificate without any

sanction behind it the court will be stultifying itself. It is no doubt true, the question is not one of prestige of the court but at the same time it cannot be overlooked that when there are ministerial officers who can issue a certificate that the stamps defaced have not been utilised in the proceedings, the court should be loath to exercise such a function. Merely because a party wants such a certificate from the court instead of from its ministerial officers, the court is not bound to grant the same.

21. As already stated, the inherent power under Section 151 C.P.C is Judicial power and it cannot be invoked to pass administrative and ministerial orders such as the issue of a certificate that the stamps though defaced had not been utilised. The said inherent power under Section 151 C.P.C., as already stated, can be invoked by the court for granting refund of court-fee only in cases where excess court-fee has been paid under orders of court which orders are subsequently reversed or set aside, for in such cases the court is bound to rectify its own mistake in calling upon the party to pay the court-fee which he is not bound to pay under the law. We are, therefore of the opinion that the court has no power to grant a certificate under Section 151 C.P.C., merely setting out the facts that the court-fees paid though defaced have not been utilised, and the decisions of this Court on this point starting from Nagaratnam in re MANU/TN/0266/1950 : AIR1950Mad629, cannot be taken to be good law."

15. The learned Amicus Curiae also drew the attention of this Court to a Single Bench Judgment of Madras High Court in the case of Rachakonda Nagarathnam reported in (1950) AIR (MADRAS) 629 and submitted that as per the said judgment, a discretionary power is vested with the courts to direct the Government to consider the refund of court fees in cases not provided for under the court fees act applying the principle of ex gratia and misericordia domini regis ("by favour and by the mercy of our Lord the King"). The relevant portion of the aforesaid judgment reads as follows:

"4. But it may be urged that this is a case of court-fee getting spoilt, without being used for an appeal something like a stamp paper getting spoiled without being used for a document. Even if that is so, the petitioner's remedy, if any, is not to apply for a refund certificate from the Court,

but to apply to the Government ex gratia and misericordia domini regis ("by favour", and "by the mercy of our Lord the King") for a refund less the one anna in the rupee deductions, as for spoilt stamp papers, if they are pleased to grant it. For this purpose alone, a certificate will be granted to the petitioner, as requested by him, that the second appeal was not numbered or heard by this Court and that the appeal memorandum has been stamped with a court-fee of Rs.149.15-0, and that the court-fee stamps have been defaced by the High Court office in the usual course of routine. I see no objection to granting a certificate to that effect u/s 151, Civil P.C. The Government will, of course, pass such orders as they like, after perusing this certificate, as it is wholly ex gratia and misericordia domini regis. The re-presented appeal memorandum, which has now become unnecessary for retention in this Court, will be, as requested by the petitioner, returned to him for prosecuting his ex gratia and misericordia domini regis application to the Government, if so advised."

16. The learned Amicus Curiae also submitted that a Division Bench of this Court in the case of J. Jayalakshmi and Others vs. Vasavi Transport and Anr. reported in (1995) 1 MLJ 187 (DB) has followed the aforesaid decision in the case of Rachakonda Nagarathnam reported in (1950) AIR (MADRAS) 629 and the relevant portion of the Division Bench Judgment is extracted hereunder:

"2. Counsel for the appellant prays for a direction for refund of court-fee paid on the memorandum of appeal. Even before the appeal was taken up for admission, the appeal is withdrawn. We find that a sum of Rs.19,372.50 has been paid as court-fee. It is a very heavy amount and in view of the withdrawal of the appeal, it would be in the interests of justice to grant a refund. But, there is no provision in the Tamil Nadu Court-fees and Suits Valuation Act to enable the court to give a direction for refund of court-fee. However, we direct the appellant to make an application to the Government ex gratia and misericordia domini regis ("by favour" and "by the mercy of our Lord the King"). For this purpose, certificate will be granted to the appellants by the Registry that the appeal memorandum was stamped with a court fee of Rs.19,372.50 and that the court-fee stamps had been defaced by the High Court Office in the usual

course of routine. There can be no objection to the grant of such a certificate as there is a precedence in Rachakonda Nagarathnam In re. (1950) 1 M.L.J. 222. The Government will pass such orders as they like, after perusing the certificate, as it is wholly ex gratia and misericordia domini regis. The registry is directed to return the stamp papers attached to the memorandum of appeal, so that the appellant may present them along with his application to the Government for refund of court-fee. The memorandum of appeal shall be retained by the Registry."

17. The learned Amicus Curiae further submitted that the aforesaid decisions in the cases of Rachakonda Nagarathnam and J.Jayalakshmi and others vs. Vasavi Transport and another have once again been followed by a Division Bench of this Court in the case of A.Gnanaselvan vs. B.A.Xavier (died), A.S. (MD) 128 of 2005 dated 13.11.2014. The relevant portion of the Judgment is extracted hereunder:

"6.At this stage, an Order of a Division Bench of this Court in Jayalakshmi & 5 Others vs. M/s.Vasavi Transport, etc. & another -1995-2-L.W.110, has been brought to our notice by Mr.K.Govindarajan, learned counsel, who happens to be present in Court. In the said order, while recognising the absence of any provision under the said Act for refund of court fees in appeals, it was opined that the same would not preclude the appellants from making an application to the Government ex gratia ad misericordia domini regis ("by favour" and "by the mercy of our Lord the King") and for that purpose, a certificate was directed to be granted by the Registry to the appellants as to the valuation of the stamps affixed on the Memorandum of Appeal, which stood defaced and the Government was directed to pass an order, as they deem fit, after perusing the certificate, as it is wholly ex gratia ad misericordia domini regis.

7.The learned counsel for the appellant, in view of the aforesaid observation, seeks the same relief.

8.We are inclined to accede to the request of the learned counsel for the appellant, specifically considering the fact that the appeal has been withdrawn, after settlement. The appellant would have been able to obtain refund of the Court fees under Section 69-A of the said Act, on a recourse of ADR Mechanism under Section 89 of C.P.C. being

resorted to. The said provision was introduced as an incentive to aid in assistance of ADR Mechanism as well the process of settlement of lis. The only difference is that the present settlement of lis is inter-se parties, without intervention of a mediator."

18. However, the Full Bench Judgment of the Madras High Court in the case of Official Receiver, Coimbatore vs. S.A.Ramasamy Gounder and others reported in AIR 1980 (MAD) 269 which bars invocation of inherent powers under Section 151 CPC for refund of court fees was not brought to the notice of the Division Bench as seen from the aforesaid decision. We are of the considered view that the decisions rendered in the cases of (a) Rachakonda Nagarathnam, (b) J. Jayalakshmi and others vs. Vasavi Transport and another and (c) A. Gnanaselvan vs. B.A. Xavier (died), A.S. (MD) 128 of 2005 dated 13.11.2014 referred to supra are per incuriam as the Full Bench Judgment of the Madras High Court in the case of Official Receiver, Coimbatore vs. S.A. Ramasamy Gounder and others reported in AIR 1980 (MAD) 269 has barred the invocation of inherent powers under Section 151 CPC for refund of court fees and has also held that the law laid down in Rachakonda Nagarathnam is bad law.

19. From the aforesaid decisions, it is clear that only if the refund of court fees on account of rejection of the condone delay application in representing the review application falls within the purview of Section 66 of the Tamil Nadu Court fees and Suits Valuation Act, 1955, refund of court fees can be granted to the review petitioner.

20. The valuation of court fees under Sections 16 and 17 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 are based on the determination and levy of fees on the plaints in suits. Even though the valuation of court fees both for appeals as well as for review petitions is determined on the basis of valuation in the suits, there is no specific provision for refund of court fees for a review petition, when delay in filing an application for review has been rejected by the Court. There is also no bar under the Tamil Nadu Court Fees and Suits Valuation Act, 1955 for granting of refund of court fees in cases where the delay in representation of the review petition has been rejected.

21. The Hon'ble Supreme Court in the case of S.S. Karla vs. Union of India reported in (1991) 1 SCR 364 held that it is permissible to the court to supply words which have been accidentally omitted in a provision of a statute. The relevant portion of the Judgment reads as follows:

"..True it is not permissible to read words in a statute which are not there, but "where the alternative lies between either supplying by implication words which appear to have been accidentally omitted, or adopting a construction which deprives certain existing words of all meanings, it is permissible to supply the words" (Craies Statute Law, 7th Edition, p. 109). Similar are the observations in Hameedia Hardware Stores v. B.Mohan Lal Sowcar, [1988] 2 SCC 513 at 524-25 where it was observed that the court construing a provision should not easily read into it words which have not been expressly enacted but having regard to the context in which a provision appears and, the object of the statute in which the said provision is enacted, the court should construe it in a harmonious way to make it meaningful. An attempt must always be made so to reconcile the relevant provisions as to advance the remedy intended by the statute. (See: Sirajul Haq Khan & Ors. vs. The Sunni Central Board of Waqf, [1959].1 SCR 1287 at 1299)."

The above principle has also been reiterated by the Hon'ble Supreme Court in the case of Gujarat Urja Vikash Nigam Limited vs. Essar Power Limited, reported in AIR 2008 SC 1921 and the relevant portion is extracted hereunder:

"51. No doubt ordinarily the literal rule of interpretation should be followed, and hence the Court should neither add nor delete words in a statute. However, in exceptional cases this can be done where not doing so would deprive certain existing words in a statute of all meaning, or some part of the statute may become absurd.

52. In the chapter on 'Exceptional Construction' in his book on 'Interpretation of Statutes' Maxwell writes : "Where the language of a statute, in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. This may be done by departing from the rules of grammar, by giving an unusual meaning to particular words, by altering their collocation, by rejecting them

altogether, or by interpolating other words, under the influence, no doubt, of an irresistible conviction that the legislature could not possibly have intended what the words signify, and that the modifications thus made are mere corrections of careless language and really give the true intention."

22. The Lord Denning LJ in a leading English decision in the case of *Seaford Court Estates Ltd v Asher*[1949] 2 KB 481, while dealing with interpretation of statutes held as follows:

"Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticized. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give "force and life" to the intention of the legislature. That was clearly laid down by the resolution of the judges in *Heydon's case*, and it is the safest guide to-day. Good practical advice on the subject was given about the same time by Plowden in his second volume *Eyston v Studd*. Put into homely metaphor it is this: A judge should ask himself the question: If the makers of the Act had themselves come across this ruck in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must not alter the material of which it is

woven, but he can and should iron out the creases.

23. As seen from the aforesaid decisions, whenever there is an accidental omission in the statute, the courts are empowered to supply words which have been accidentally omitted. The duty of the courts is to see the intention of the legislature while interpreting statutes. In the case on hand, when the valuation for both appeal as well as review is determined based on the valuation done in the suit, the intention of the legislature would not have been to exclude benefits of refund of court fees for review petitions when the delay in representation of the review petition has been rejected, when the said benefit is available for appeals. The Lord Denning has rightly held that when a defect appears in the drafting of the statute, a Judge cannot simply fold his hands and blame the draftsman, when the intention of the legislature has not been expressed properly due to the poor drafting of the statute.

24. The Bombay High Court in the case of Municipal Commissioner vs. Mathoorabai, reported in (1906) 8 BOM L.R.457 has held that an inclusive definition does not amount to restriction on the court's power to interpret but is a phrase of extension. The relevant portion of the said Judgment reads as follows:

" 8. Now, firstly it is to be observed that "includes" is a phrase of extension, and not of restrictive definition. It is not equivalent to "means", The Queen v. Kershaw (1856) 6. E. & B. 999 at p. 1007; The Queen v. Hermann (1879) 48 L.J.M.C. 106 : 4 Q. B.D. 284. But as said by Lord Watson :- "include" is very generally used in interpretation clauses in order to enlarge the meaning of the words or phrases occurring in the body of the statute; and when it is so used these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. But the word 'include' is susceptible of another construction, which now become imperative if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to 'mean and include', and in that case it may afford an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions, "Dilworth v. Commissioner of Stamps [1899] A.C. 105, 106. The draftsman of the Bombay

Municipal Act was fully aware of the difference between "include" and "mean", and we are of opinion that he used the word 'include' in the above Clause (w) in order to enlarge the meaning of the word "street" which, having before him the example of various Judges in England, he was careful not to define. From this it follows that the word "street" must receive the ordinary common-sense interpretation which (if we may use a colloquial expression) would be put upon it by "the man in the street".

25. Section 3(i) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 defines an Appeal and it is an inclusive definition. Being an inclusive definition and there being no bar to apply Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 for cases involving review petition which has been rejected on account of rejection of the delay in representation of the review petition, we are of the considered view that Section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 is also applicable to cases where the delay in representation of the review petition has been rejected by the court.

26. The Hon'ble Supreme Court (Before V.R.Krishna Iyer, D.A.Desai and O.Chinnappa Reddy, JJ.) while interpreting the Tamil Nadu Court Fees and Suits Valuation Act, 1955 in the case of Lakshmi Ammal vs. K.M.Madhavakrishnan and Others reported in (1978) 4 SCC 15 has held that the benefit of doubt has to be given to a litigant in interpreting the court fee legislation. The Hon'ble Supreme Court has observed in the said judgment that access to justice is the basis of any legal system and therefore, where there is a reasonable doubt while interpreting court fee legislation, the benefit must go to the litigant who says that the lesser court fee alone has to be paid. In the case on hand also, the benefit of doubt should be given to the litigant namely, the petitioner herein, in view of the reasons stated above.

27. For the foregoing reasons, the point for consideration in this matter is answered in favour of the petitioner by holding that Section 66 of the Tamil Nadu Court Fees and Valuations Act 1955 is also applicable to cases involving a review petition when the delay in representation of the review petition has been rejected by the Court. We appreciate the able assistance rendered by Mr.V.Lakshmi Narayanan, learned Amicus Curiae and Mr.K.K.Muralitharan, learned counsel for the petitioner.

28. We therefore, direct the registry to refund the court fees paid in the Review Application SR81895 of 2017 to the petitioner subject to the usual deductions applicable for any court fee refund and CMP.23051 of 2018 in Review Application SR81895 of 2017 is allowed as prayed for.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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Note: Registry is directed to circulate a copy of this order to all the Principal District Judges in the State of Tamil Nadu to keep the courts informed in their respective districts that it is permissible to refund court fees in a review petition under section 66 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 in cases where the delay in representation of the review petition has been rejected by the court.

To

1.The Registrar General
High Court Madras

2.The Section Officer
F Section
High Court Madras

3.The Registrar(Judicial)
High Court Madras

+1 cc to Mr.K.K.Muralitharan Advocate sr65451

C.M.P.No.23051 of 2018 in
Rev. Appl. SR81895 of 2017

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