

C.M.P.No.27821 of 2019
in
A.S.SR.No.45831 of 2019

S.M.SUBRAMANIAM, J.

There is a delay of 1781 days in re-presenting the appeal suit filed in A.S.SR.No.45831 of 2014 filed against the judgment and decree in O.S.No.12811 of 2010 dated 27.11.2013.

2. The reasons stated in the affidavit filed in support of the miscellaneous petition is that the learned counsel for the petitioner misplaced the original case bundle and he is unable to trace it for more than five years. Thereafter, the bundle was traced out and re-presented with the delay of 1781 days.

3. A reasonable delay in re-representation can be understood by this Court. However, an absolute irresponsibility on the part of the lawyer in dealing with the case cannot be viewed leniently in all circumstances. For a litigant, his case is important, since it involves his right and the lawyer is bound to take responsibility equally. Therefore, the lawyer is bound to act promptly and diligently, when the case bundle is handed over to him. Contrarily, the bundle returned by the High Court Registry is kept in the office for more than five years and the said appeal papers are re-presented. This Court is

of the opinion that such conduct cannot be considered as a candid reason from a responsible lawyer.

4. While disapproving the actions of the learned counsel for the petitioner in not re-presenting the case bundle within a reasonable period of time, this Court has to equally consider the right of the parties. On account of the misconduct committed by the lawyer, a litigant need not suffer. The right of the litigant cannot be denied, on account of the misconduct committed by the lawyer, unless the said delay is established as intentional. However, in view of the affidavit filed by the Counsel, this Court cannot draw any such factual inference in this case.

5. Taking note of the facts and circumstances and considering the fact that the delay is also enormous, this Court is of the opinion that the right of the litigant is to be considered, in view of the fact that admittedly, the lawyer has committed misconduct in not re-presenting the case within a reasonable period of time. Under these circumstances, this Court is inclined to allow the miscellaneous petition with a condition to pay a sum of Rs.3,000/- to the High Court, Legal Service Authority on or before 10.01.2020, failing which, the petition stands dismissed automatically. With this condition, the

miscellaneous petition stands allowed.

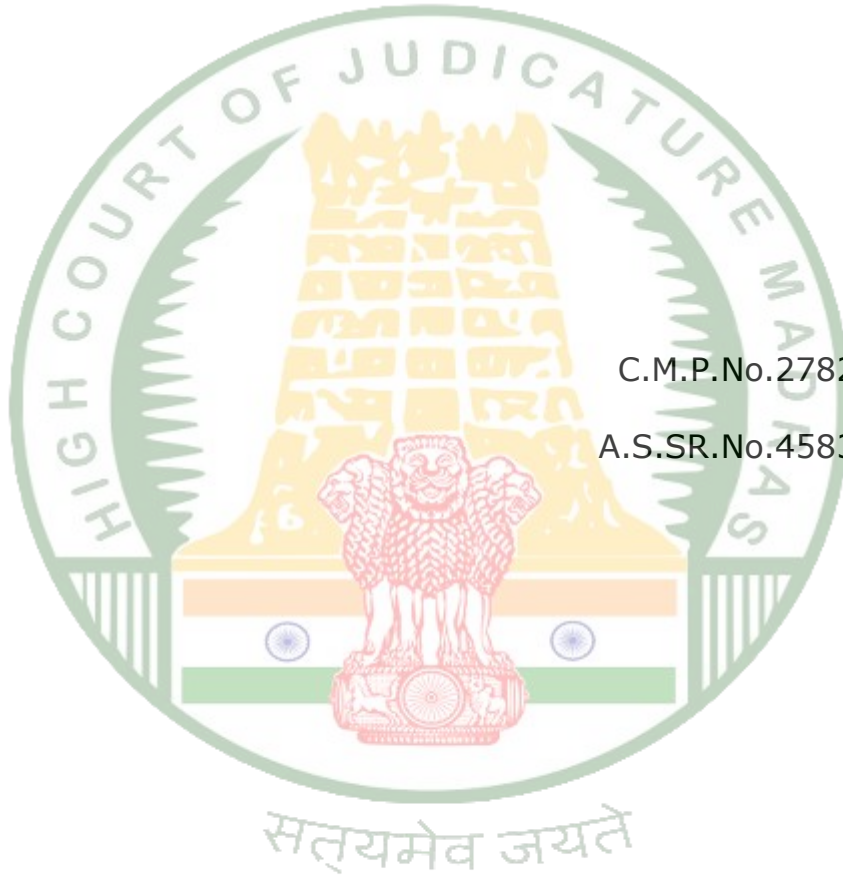
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