

A.No.994 of 2020
in
C.S.No.88 of 2006
C.V.KARTHIKEYAN,J.,

This application has been filed to amend the judgment dated 23.10.2019 and also Clause (vii) of paragraph 24 and Clause 4 of the decree in respect to the payment of interest.

2. It is stated in the affidavit filed in support of the said application that the suit was filed for recovery of Rs.14,20,80,000/-.

3. Pending the suit, the defendant had deposited in cost a total sum of Rs.4 crores in March and April 2006.

4. By an order dated 06.12.2018, the said amount was deposited in a nationalized bank in fixed deposit. After trial, the suit was decreed on 23.10.2019 and it was stated in the judgment and the plaintiff was entitled to a sum of Rs.4.5 lakhs together with interest at 12% per annum from the date of filing the suit till date of realization.

5. The learned counsel for the applicant/defendant raised a grievance that the amount lay in Court deposit without earning interest from March/April 2006 till December 2018 and therefore stated that interest should not have been granted from March/April 2006 till 06.12.2018.

6. A counter has also been filed by the respondent/plaintiff.

7. In Article 284(b) to Constitution of India it is provided that any amount deposited in the Court shall be appropriated to the consolidated state fund.

8. Therefore, the applicant herein should have taken diligent steps at the earliest stage itself and should have called upon the Court to deposit the amount in an interest yielding bank account. The plaintiff cannot be put to loss. Owing to the fact that the amount was deposited by the defendant was in cost deposit. On this ground, the judgment and decree cannot be amended particularly under Sections 151 and 152 of C.P.C. Section 151 C.P.C relates to the inherent power Court and that power Court be exercised to amend the judgment passed after recording evidence of both sides. Under Section 152 C.P.C, amendment of error/calculations are permitted. Grant of interest or otherwise cannot be re-examined by the Court by way of amendment to the judgment or decree.

9. The learned counsel for the applicant however stated that he had filed Original Side Appeals which are not numbered, but filed within the period of limitation questioning the grant of interest for the period during which the amount had been deposited in Court. The defendant can always canvass those grounds in the Appeal. At this stage amendment of the judgment and decree are not possible. The learned counsel for the applicant however mentioned that he would withdraw the applications.

10. In view of the statement, this application is dismissed as withdrawn, however, giving liberty to the applicant to canvass all the grounds stated by him before the Appellate Court which is a statutory right granted to him.

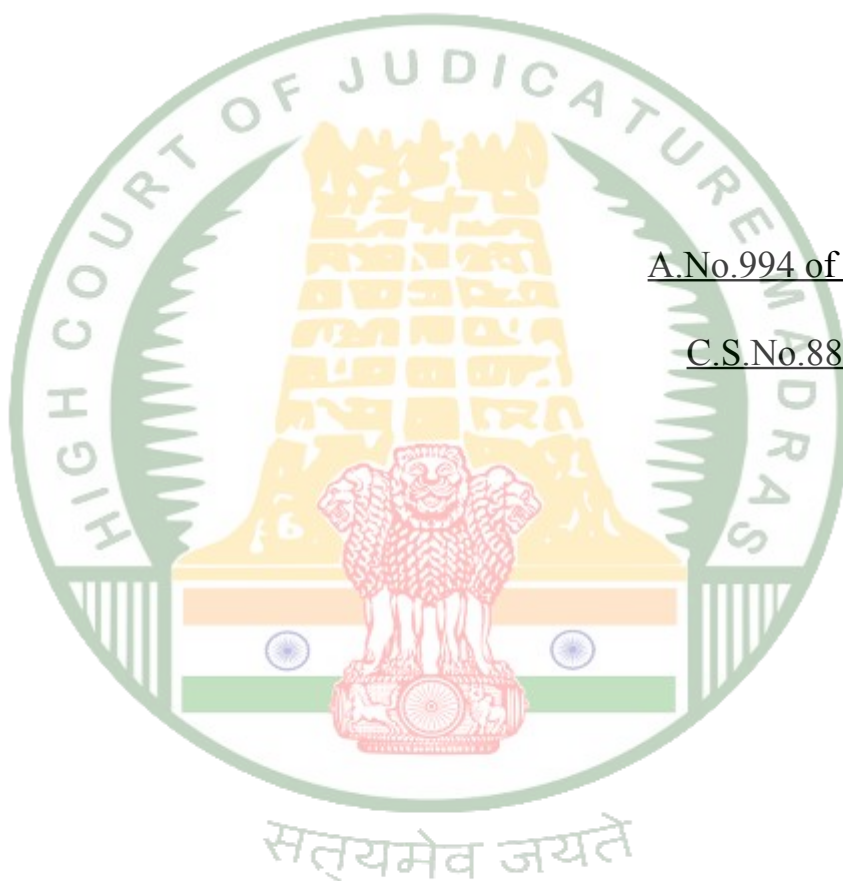
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C.V.KARTHIKEYAN,J.,

nvi



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