

C.M.P.No.8726 of 2018

in

A.S.SR.No.31 of 2011

S.M.SUBRAMANIAM,J

The appeal suit was dismissed for default on 22.01.2018.

2. The learned counsel for the petitioner made a submission that during the relevant point of time, they could not able to secure the documents and on the particular day, they have not appeared on account of the fact that the counsel has been engaged in other court. The non-appearance was neither willful nor wanton.

3. The learned counsel appearing on behalf of the respondent opposed the contention by stating that the matter was listed on several occasions for final hearing and inspite of that, the petitioner had not appeared before the Court. However, this Court is of the opinion that the appeal suit is to be decided on merits as the suit was instituted before the Trial Court for partition.

4. Considering the facts and circumstances, the miscellaneous petition for restoration of the appeal suit stands allowed on condition to pay a sum of Rs.1,000/- (Rupees One Thousand only) to the High Court Legal Services Authority, on or before 24.01.2020, failing which, this petition would stand dismissed automatically.

5. With this condition, the civil miscellaneous petition stands allowed.

09.01.2020

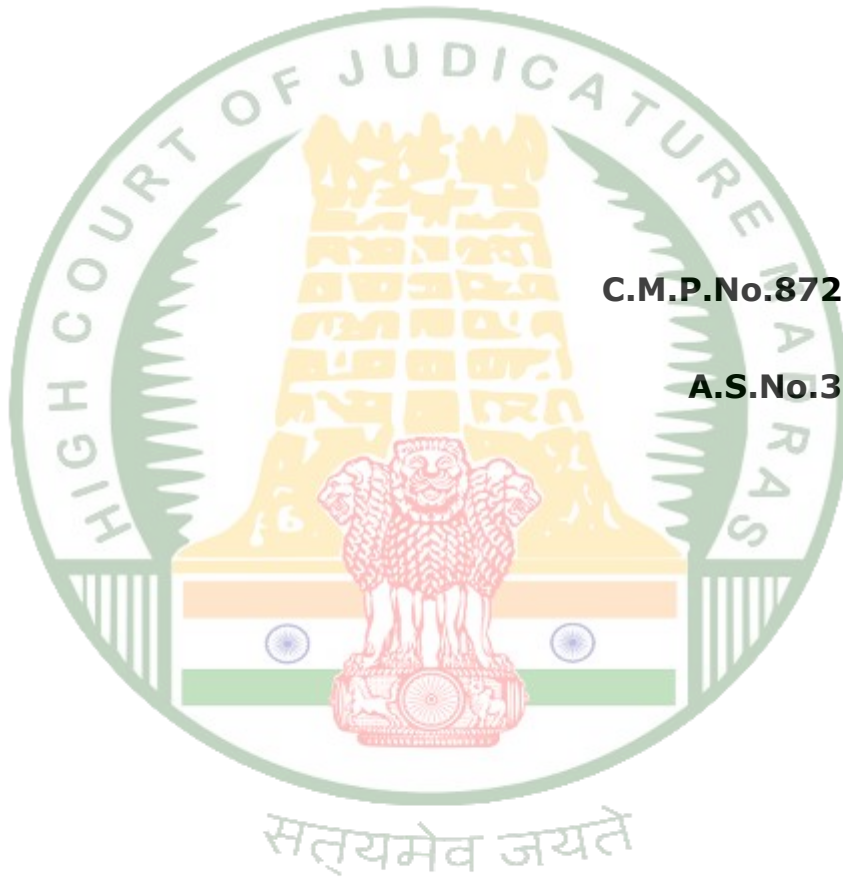
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09.10.2020