

C.M.P.No.11901 of 2019
in
A.S.SR.No.51024 of 2019
and
A.S.No.494 of 2018

S.M.SUBRAMANIAM, J.

This miscellaneous petition is filed to condone the delay of 310 days in filing the appeal suit.

2. The learned counsel appearing on behalf of the petitioner made a submission that the two suits were instituted, one by the appellant and another by the respondents. Both the suits were dismissed by the Trial Court and the respondents already filed A.S.No.494 of 2018, challenging the judgment and decree passed in O.S.No.74 of 2012. As against the judgment and decree passed in O.S.No.86 of 2012, the petitioner filed an appeal suit along with the petition to condone the delay.

3. The learned counsel for the petitioner made a submission that there was a delay in getting the certified copy and the reasons are stated in Paragraphs 5 and 6 of the affidavit filed in support of this civil

miscellaneous petition, which all are extracted hereunder:

"I humbly submit that the suit in O.S.No.86 of 2012 was decreed on 12.02.2018 and as such my trial Court counsel has filed Copy Application on 14.02.2018 and stamps were called for on 06.03.2018 and the certified copies of the Judgment and Decree were made ready on 08.03.2018 and were collected by my counsel on 09.03.2018. However, the Advocate Clerk who had obtained the certified copies of the judgment and decree had kept them in a different bundle along with other papers due to sheer inadvertence and mix-up of papers and the factum of the certified copies of judgment and decree having been obtained from the Registry of the Hon'ble Court was also not informed to my Counsel and as such both my Counsel and myself were under the impression that the certified copies are yet to be made ready.

6. I submit that only after receipt of the notice in the A.S.No:494 of 2018 from this Hon'ble Court during December 2018, I took the same to my Counsel and on his instructions, the status of the copy application was verified with the Court Registry and noticed that the certified copies have been already received. Only thereafter, a

search was made in the office of my Counsel and the certified copies of the judgment and decree in O.S.No.86 of 2012 were traced from the other bundle in which they have been kept due to mistake and took out. Thereafter, I took necessary steps for filing of the appeal before this Hon'ble Court."

4. In view of the fact that against the other judgment and decree passed in O.S.No.74 of 2011, the appeal suit in A.S.No.494 of 2018 is pending, this Court is inclined to condone the delay.

5. Accordingly, the delay of 310 days is condoned and this petition is ordered on condition to pay a sum of Rs.1,000/-(Rupees One Thousand only) to the High Court Legal Services Authority on or before 20.01.2020, failing which, this petition would stand dismissed automatically.

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06.01.2020

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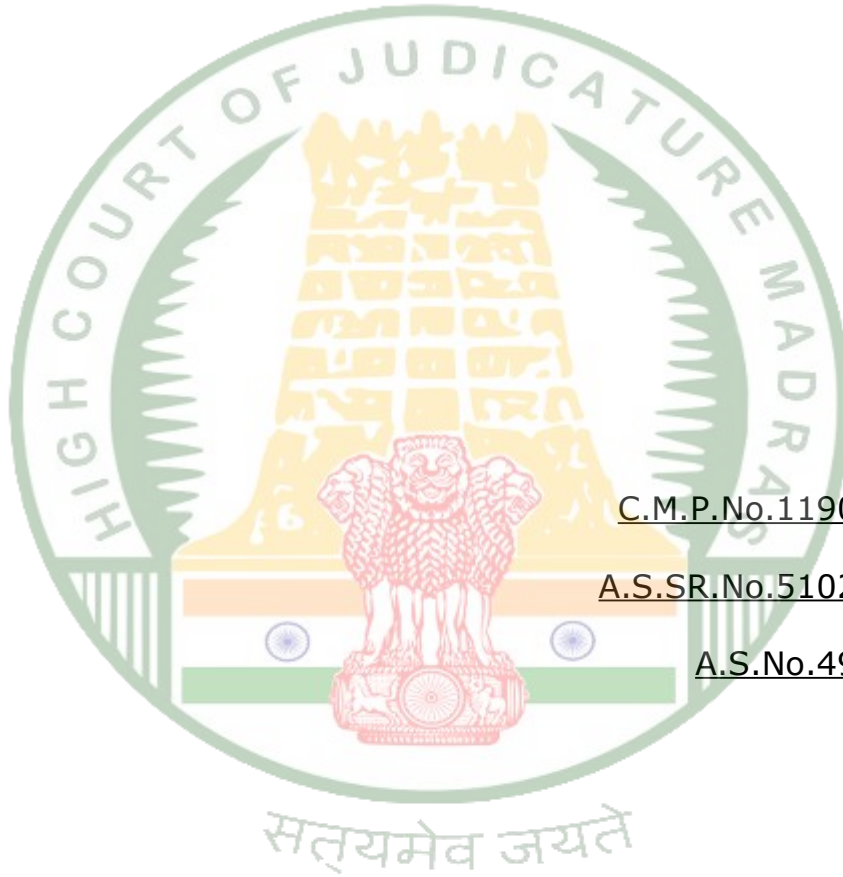
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