

C.M.P.No.24278 of 2019
in
S.A.Sr.No.140061 of 2019

K.KALYANASUNDARAM, J.

This application has been filed to condone the delay of 1519 days in preferring the Second Appeal.

2.Mr.Govind Chandrasekhar, learned counsel for the petitioner would state that after disposal of the appeal by the First Appellate Court, the petitioner preferred a Review Petition, within a period of limitation and the same came to be dismissed on 26.06.2019. The very next day the petitioner filed a copy application for obtaining a certified copy of the order and after receiving the same the present appeal is filed. Hence, there is no delay, in view of the decision of this Court in Asi Bai Vs. Gomathi and others, reported in 91 Law Weekly 101, wherein this Court held as follows :

“ 3. In Brij Indar Singh v. Kanshi Ram, the Privy Council has laid down a general rule for the exercise of the judicial discretion under S.5 of the Limitation Act to admit, for “Sufficient Cause” an appeal which would otherwise be barred by limitation. It has referred to Kattu Bakheh v. Daulat Ram and observed that the true guide is whether

the appellant has acted with reasonable diligence in the prosecution of his appeal. It has further observed that the appellant ought to be deemed to have so acted where, after deducting the time spent in prosecuting with due diligence a proper application for review of judgment, the period between the date of the decree appealed from and the date of presenting the appeal does not exceed the period prescribed for preferring an appeal. The learned District Judge ought to have followed this rule and exercised his judicial discretion. He has failed to do so. Therefore, the order of the learned District Judge is set aside and the matter is remanded to him for fresh consideration. The civil revision petition is accordingly allowed.”

3.Per contra, Ms.R.Gomathi, learned counsel for the respondent by referring the counter affidavit would argue that the enormous delay is not properly explained by the petitioner. It is further stated that the petitioner has misappropriated the funds of the respondent Society to the tune of Rs.8,74,725/- and hence, this petition may be dismissed.

4. However, considering the reasons stated in the affidavit filed in support of this petition and the submissions made by the learned counsel

for the petitioner, this Court is inclined to condone the delay. Accordingly,
the delay is condoned.

The Registry is directed to number the Second Appeal, if it is
otherwise in order and list the Second Appeal for admission on 04.02.2020.

29.01.2020

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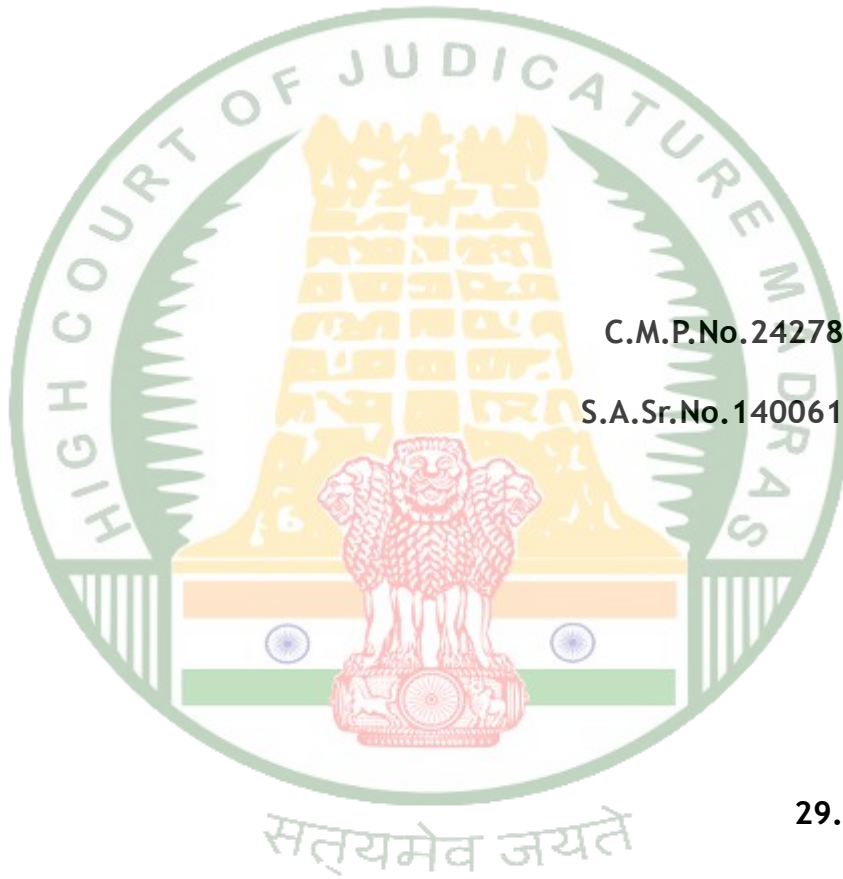


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