

C.M.P. Nos. 5645 and 5648 of 2021
in
O.S.A. S.R. 132773 and 132774 of 2019
N.KIRUBAKARAN, J.
and
P.D.AUDIKESAVALU, J.

[Order of the Court was made by N.KIRUBAKARAN, J.,]

These Petitions have been filed by the proposed Appellant who was challenging the decree and judgment dated 05.07.2019 in O.P. Nos. 111 and 27 of 2009. The Appeals have been filed under Section 37 of the Arbitration and Conciliation Act, 1996.

2. For an Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, a sum of Rs.5,000/- (Rupees Five Thousand only) has to be paid as court-fee as per the Original Court Fees Act. However, as per the Amendment Act, viz., the Tamil Nadu Court-Fees and Suits Valuation (Amendment) Act, 2017, court-fee has been enhanced to Rs.1,00,000/- (Rupees One Lakh only) for filing an Application under Section 34 or 37 of the Arbitration and Conciliation Act, 1996.

3. Since the Original Petitions were filed before the amendment Act came into effect, the Proposed Appellant paid the Court Fee of Rs.5,000/- each and filed Appeals. However, the Registry demanded a sum of Rs.1,00,000/- to be paid as per the Amendment Act and thereafter, the entire court-fee has been paid.

Therefore, In that process, there was a delay in payment of court-fee.

4. Ms. S.Geetha, Learned Counsel for the proposed Appellant in both the proposed Appeals pointed out that the Original Side Appeal papers were returned for compliance on 27.11.2019 and the same were re-presented on 18.12.2019 and again, the papers were returned on 29.01.2020 and because of the pandemic situation, the papers were re-presented only on 03.02.2021. In that process also, there was a delay in payment of court-fee.

5. Further, she also relies on the order of the Hon'ble Supreme Court of India in *suo motu* Writ Petition (Civil) No.3 of 2020, by which the period of limitation has been extended in all such proceedings. Pointing out all these aspects of the case, she prays to condone the delay in the payment of court-fee.

6. However, Mr. P.L.Narayanan, Learned Counsel appearing for the Respondents submits that though it is a matter between the Court and the proposed Appellant, the filing of these Appeals with meagre amount as court-fees would amount to defective filing. He also relies upon the judgment of the Division Bench of this Court that by paying a token amount as court-fee , time cannot be extended

under Section 149 of the Code of Civil Procedure, 1908 for payment of the entire court-fee. He also sought time for filing Counter-affidavit in these matters.

7. Taking into consideration the above facts, viz., the payment of court-fee has been enhanced to Rs.1,00,000/- and the Petitioner was under the impression that payment of the original court fee of Rs. 5,000/- was enough as the original petitions were filed before the amendment Act came into force and due to pandemic situation, the compliance could not be made in time and only when the Registry demanded a sum of Rs.1,00,000/- as court-fee, the amount has been paid as per the Tamil Nadu Court-Fees and Suits Valuation (Amendment) Act, 2017 and in view of the order passed by the Hon'ble Supreme Court, *suo motu* in Writ Petition (Civil) No.3 of 2020, this Court is convinced with the contentions made by the Petitioner and accordingly, these Petitions are ordered.

(N.K.K., J.)

(P.D.A., J.)

23.03.2021

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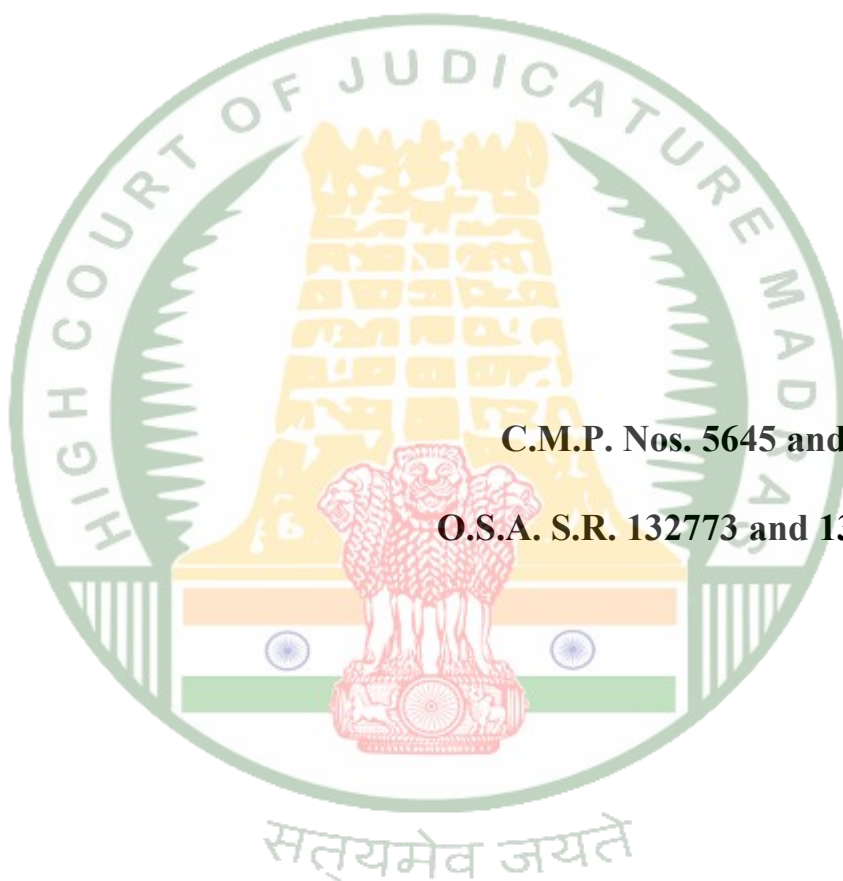
Note: 1.Registry is directed to number these appeals, if they are otherwise in order and post the matter for admission on 25.03.2021.

2.Registry is directed to print the name of Mr.P.L.Narayanan, Learned Counsel for the Respondent at the time of admission.

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Dated:23.03.2021