



C.M.P.No.8545 of 2023 in LPA.SR.No.33254 of 2023

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LPA.SR.No.33254 of 2023

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R.MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

(Order of the court was made by R.MAHADEVAN, J.)

This civil miscellaneous petition has been filed by the petitioner / appellant to order refund of court fee, which was inadvertently paid by the counsel on record by name K.N.Nataraj, in LPA.SR.No.33254 of 2023.

2. The learned counsel for the petitioner / appellant submitted that without taking into account the amendment in the Civil Procedure Code, with effect from 01.07.2002, the petitioner / appellant has inadvertently, preferred an appeal in LPA.SR.No.33254 of 2023 assailing the judgment and decree dated 26.04.2022 passed in A.S.No.640 of 2018; and that, a sum of Rs.45,000/- has also been filed towards court fee, at the time of filing of the said LPA. Since the said appeal is not maintainable, the Registry has returned the appeal papers on 13.03.2023, on the ground of maintainability. Therefore, the learned counsel sought to refund the court fee already paid by him mistakenly, at the time of filing of the said appeal.



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3. Heard the submissions made by the learned counsel for the petitioner / appellant.

4. Considering the reasons stated in the affidavit filed by the petitioner / appellant and the present stage of the appeal, which is at SR stage, and also in the light of section 70 of Tamil Nadu Court Fees and Suit Valuation Act 1955, which provides for refund of court fee paid by mistake or inadvertence, this court is inclined to order refund of court fee already paid by the learned counsel for the petitioner / appellant in LPA SR No.33254 of 2023.

5. Accordingly, this petition is disposed of, by directing the registry to refund the court fee to the petitioner / appellant, in accordance with law.

[R.M.D., J.] [M.S.Q., J.]
28.04.2023

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