

In Re: Chidambaram Chettiar

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Court : Chennai

Decided On : Apr-03-1934

Reported in : AIR1934Mad566; 152Ind.Cas.778

Appellant : In Re: Chidambaram Chettiar

Judgement :

ORDER

1. This appeal is withdrawn and is therefore dismissed. The appellant has filed an application for amendment of the decree which was allowed. The opposite party filed a revision petition in this Court. For fear that the amendment will be disallowed the appellant filed this appeal. Now that the revision petition is dismissed, the appellant is willing to withdraw the appeal. In these circumstances, the appellant asks for a refund of court-fees. He admits there is no section of the court-fees Act which he can rely on. He relies on C.T.A.M. Chettyar Firm v. Ko Yin Gy 1929 Rang. 158, Mohamed Saliqu Ali v. Ali Abbas 1983 Oudh. 170 and J.C. Galstaun v. Janaki Nath Roy 1931 Cal. 615.

2. In our opinion the Court can order a refund : (1) where the court-fees Act applies; (2) where there is an excess payment by a mistake; or (3) where, on account of the mistake of a Court a party has been compelled to pay court-fees either wholly or in part. Outside these cases we are not satisfied that we have authority to direct a refund. Once a case like J.C. Galstaun v. Janaki Nath Roy 1931 Cal. 615 is recognized we ought to permit refund in all cases where appeals are dismissed on the ground of limitation. We are not prepared to go so far. The

fact that the delay in J.C. Galstaun v. Janaki Nath Roy 1931 Cal. 615 is due to the fault of the legal adviser has no bearing on the right of the Crown to the court-fee paid. We cannot direct a refund of the court-fees.

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