**AFFIDAVIT IN SUPPORT OF THE APPLICATION**

IN THE COURT OF THE MUNSIF....................

Affidavit

in

Civil Misc. Application No............ of 19....................

Original Suit No..................... of 19....................

A. B................................................................... Plaintiff

*versus*

*C. D............................................................... Defendant*

Affidavit of AB S/o XY, aged about.................... years, resident of .................... Calcutta.

I, AB deponent aforementioned solemnly state and affirm as below:

1. That I am the plaintiff in the above noted suit and as such am fully acquainted with the facts deposed to below:

2. That I have been read over and explained the contents of the accompanying misc. application for extention of time and those of this affidavit and have fully understood the same.

3. That the contents of paras 1, 2 and 3 of the accompanying application and those of paras 1 and 2 of this affidavit are true to my personal knowledge, that no part of this affidavit is false and nothing material has been concealed.

Verified this.................... day of.................... 19.................... at

Deponent.

**CASE LAW**

***Section 148***

**COURT’S POWER IS DISCRETIONARY — PURPOSE BEHIND THE SECTION.**

The power given to the court under Section 148 is discretionary and is given for the purpose of securing the ends of justice in case of necessity. The High Court

would be in error in not adverting to and not exercising its powers under this section and in dismissing the appeal without going to the merit of the matter, where it allowed time to ile certified copy of the order of the court below, but the appellant could file it after seven days after its preparation.1

**JURISDICTION TO EXTEND TIME.**

Trial Court had jurisdiction to extend the time under Section 148, C.P.C. on sufficient cause being made out. Condition precedent to enable the HIgh Court to exercise its revisional jurisdiction under Section 115, C.P.C. was lacking.2

RESTORATION OF PETITIONS UNDER SECTION 148 CPC.

Section 148 and Order 9

Inssmuch as no period of imitation has been prescribed spearately for applications for restoring petitions under Section 148 of the C.P.C. only Article 137 of limitation Act could be said to apply for which period of limitation provided for, is 3 years.3

**APPLICABILITY FOR EXTENDING TIME**

***Section 148***

It is obvious that dismissal of an application in respect of which a petition for restoration cannot be filed, does not bar a fresh application for the relief of enlargement of time.4

1. Shri Joghayan v. Babu Ram and others, A.I.R. 1983 S.C. 57 : (1983) 1 S.C.R. 844 : (1983) S.C.C. 26.

2. Johri Singh v. Sukh Pal Singh, A.I.R. 1989 Supreme Court 2073 : 1989
(3) J.T. 582.

3. T. Krishnaswamy v. Smt. Maniyamma. AIR 2001 AP, 38.

4. T. Krishnaswamy v. Smt. Maniyamma. AIR 2001 AP, 37.