



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE  
AND

The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.89 of 2006

and

W.A.No.1306 of 2005

W.P.No.89 of 2006:

S.Sarvothaman

... Petitioner

Vs.

1. The Union of India,  
rep. by the Law Secretary,  
New Delhi.

2. The Union Territory of Pondicherry,  
rep. by Joint Secretary,  
Revenue Department,  
Pondicherry.

3. The Inspector General of Registration,  
Pondicherry.

... Respondents

W.A.No.1306 of 2005:

The Sub Registrar,  
Registration Department,  
Reddiarpalayam,  
Pondicherry.

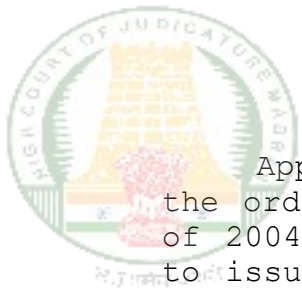
... Appellant

Vs.

S.Sarvothaman

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration that Rules 27, 28, 54 and 55 of the Pondicherry Registration Rules, 1969, are ultra vires and unconstitutional, and consequently notification No.3880/Rev/C3/2004 dt. 2.8.2004 and published in the Gazette of Pondicherry, Part II, Extraordinary dt. 3.8.2004 by the second respondent is invalid.



Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 20.04.2005 in W.P.No.16568 of 2004, filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the Respondent to return the Original documents registered as document Nos.306 and 307/04 on the file of the respondent to the Petitioner.

For Petitioner : Mrs.Hema Sampath  
in WP and Senior Counsel  
respondent in WA for Mr.R.Subramanian

For Respondent : Mr.Su.Srinivasan  
No.1 in WP Assistant Solicitor General

For Respondent : Mr.M.Govindaraj  
Nos.2&3 in WP & Government Pleader (Pondicherry)  
Appellant in WA

#### COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

On hearing the learned counsel for parties what emerges is that on account of the subsequent events, it is the admitted position that an adverse order has been passed against the petitioner in the writ petition by the Sub Registrar, refusing to register the document produced before him for the reasons recorded therein. In terms of Section 72 of the Registration Act, 1908, an appeal would lie to the Registrar from this order. Thus, an appeal ought to have been filed at that stage, which has undoubtedly not been filed and the time period for filing of the appeal has elapsed.

2. It may, however, be noticed that the proceedings are pending before this Court in one form or the other and the petitioner having pursued the matter, would be entitled to exclusion of the period spent in prosecuting the proceedings before this Court.

3. In view of the aforesaid, it is agreed that:-

- (1)The petitioner in the writ petition/respondent in the appeal will prefer an appeal before the Registrar within thirty days from today.
- (2)The time period having been spent in the present litigations, the same is liable to be excluded and thus the appeal be decided on merits ignoring the aspect of limitation.



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4. We may note that so far as the writ appeal is concerned, this has been occasioned by the finding that the amendments made to the Rules are retrospective in application, while it is not so. Thus, the impugned order is accordingly set aside.

5. In the result, the writ petition stands disposed of in terms aforesaid and the writ appeal is allowed. No costs.

6. Though we are not directly concerned with the aspect at present, we are of the view that the land records must be computerised to facilitate scrutiny of the same, as stated to have been done in Tamil Nadu and the learned Government Pleader (Pondicherry) would advise accordingly to the Union Territory of Pondicherry.

Sd/-  
Assistant Registrar(CO)

//True Copy//

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To

Sub Assistant Registrar

1. The Law Secretary,  
Union of India,  
New Delhi.
2. The Joint Secretary,  
Union Territory of Pondicherry,  
Revenue Department,  
Pondicherry.
3. The Inspector General of Registration,  
Pondicherry.
4. The Sub Registrar,  
Registration Department,  
Reddiarpalayam,  
Pondicherry.

+3cc's to Mr.R.Subramanian, Advocate, S.R.No.64126, 64125, 64340  
+1cc to the Government Pleader cum Public Prosecutor,  
S.R.No.6436

W.P.No.89 of 2006  
and W.A.No.1306 of 2005

EV(CO)  
CA(15/12/2015)