

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM

THE HON'BLE MR. JUSTICE M.S. RAMESH

W.P.No.20348 of 2013

and M.P.Nos.1 & 2 of 2013

S.Raja

...Petitioner

Vs.

1. The Union Territory of Puducherry,
Rep by its Chief Secretary,
Secretariat, Puducherry.
 2. The Inspector General of Registration-
cum-Appellant Authority,
Puducherry.
 3. The District Registrar-cum-Licensing Authority,
Department of Registration,
Puducherry.
- ...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of impugned order dated 14.06.2004 in PWDL. Appeal No.1 of 2004 passed by the second respondent herein and quash the same and consequently direct the respondents herein to renew the license granted to the petitioner herein in Document Writer License No.424/2003 dated 19.02.2003.

For Petitioner : Mr.D.Ravichander

For Respondents : Mr.J.Kumaran
Government Pleader (P)

O R D E R

The prayer in the writ petition is for issuance of writ of certiorarified Mandamus calling for the records of impugned order dated 14.06.2004 in PWDL. Appeal No.1 of 2004 passed by the second respondent herein and quash the same and consequently direct the respondents herein to renew the license granted to the petitioner herein in Document Writer License No.424/2003 dated 19.02.2003.

2. The petitioner being a document writer possessed with license No.424 /2003 dated 19.02.2003, has been served with an order dated 26.12.2003, suspending the license on the ground that he had charged Rs.350/- for preparation of sale deed bearing no.4761/03 dated 13.10.2003 and further he had contravened Rule 12(j) of the Pondicherry Document Writers License Rules for not mentioning the market value of the property in the document. Aggrieved against the same, the petitioner had filed an appeal before the second respondent, which was also rejected and confirmed by the third respondent through an order dated 26.12.2003. Challenging the same the petitioner has filed the present writ petition.

3. Heard both sides.

4. Learned counsel for the petitioner submits that the third respondent had not issued any show cause notice prior to suspending his license and hence the suspension is in violation of the principles of natural justice. The learned counsel also submitted that as a document writer, the petitioner is expected only to carryout the market value of the property agreed between the parties and that he cannot determine the market value on his own and therefore the conduct of the second respondent in dismissing his appeal and confirming the order of the third respondent dated 26.12.2003 suspending his license is illegal.

5. The learned Government Pleader (P) on the other hand, submitted that the act of the petitioner in charging Rs.350 for preparation of the sale deed and that his omission of mentioning the market value of the property was in contravention of the Pondicherry Documents Writers License Rules and therefore the second respondent has appropriately passed the impugned order.

6. I have considered the rival submissions made by both the counsel and the materials placed before this Court.

7. On the question of violation of the principles of natural justice, it is a settled legal position of law that before passing orders of like suspending the license of the petitioner, it would be mandatory on the part of the authorities to issue a prior notice as to why the license should not be suspended. In the absence of the same, passing of the impugned order is liable to be quashed on that sole ground. Further more in a judgment reported **2004-3 Law Weekly in C.S.Nagarajan Vs. The State of Tamil Nadu & others** this Court has held that the document writers are only expected to write what has been agreed between the parties and that there is no provision mandating to set forth the market value of the property document. The relevant portion of the judgment reads as follows:-

"5.3.4. Similarly, a reading of condition (g) contemplates that the petitioner shall set forth fully

and truly the consideration or the value of the properly and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it was chargeable. The condition that the licensee shall set forth the consideration or the value fully and truly would only indicate the consideration or the value that were agreed to between the parties to the document. The petitioner is only a document writer, who is obliged to write only what is agreed between the parties. The terms of the agreement for sale dated 09.06.1993 are relaxable by the parties to the sale, which cannot, in my considered opinion, be put against the document writer, to lead to the conclusion that the petitioner colluded with the parties, as the transaction relating to any conveyance thereon are purely binding the parties to such transaction. The petitioner in his explanation dated 23.12.1997 to the show cause notice dated 23.10.1997 submitted that the agreement for sale dated 09.06.1993 was not even registered. That apart, there is no provision under the Rules and conditions that the document writer shall have a copy of the documents, and therefore, he had no occasion to keep track of the valuation and consideration mentioned therein for future transactions particularly when it was not brought to his notice at the time of writing the sale deed dated 07.10.1993 by the parties to the sale deed".

8. The above observations are squarely applicable to the facts of the present case. Further the original impugned order suspending the license is also in violation of the principles of natural justice and hence liable to be set aside.

9. Accordingly writ petition is allowed. The order passed by the second respondent in appeal no.1 of 2004 as well as the original suspension order dated 19.02.2003 passed by the third respondent are set aside. No costs. Connected Miscellaneous petitions are closed.

dqp

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Sd/-

Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Chief Secretary,
Union Territory of Puducherry,
Secretariat, Puducherry.
2. The Inspector General of Registration-
cum-Appellant Authority,
Puducherry.
3. The District Registrar-cum-Licensing Authority,
Department of Registration,
Puducherry.

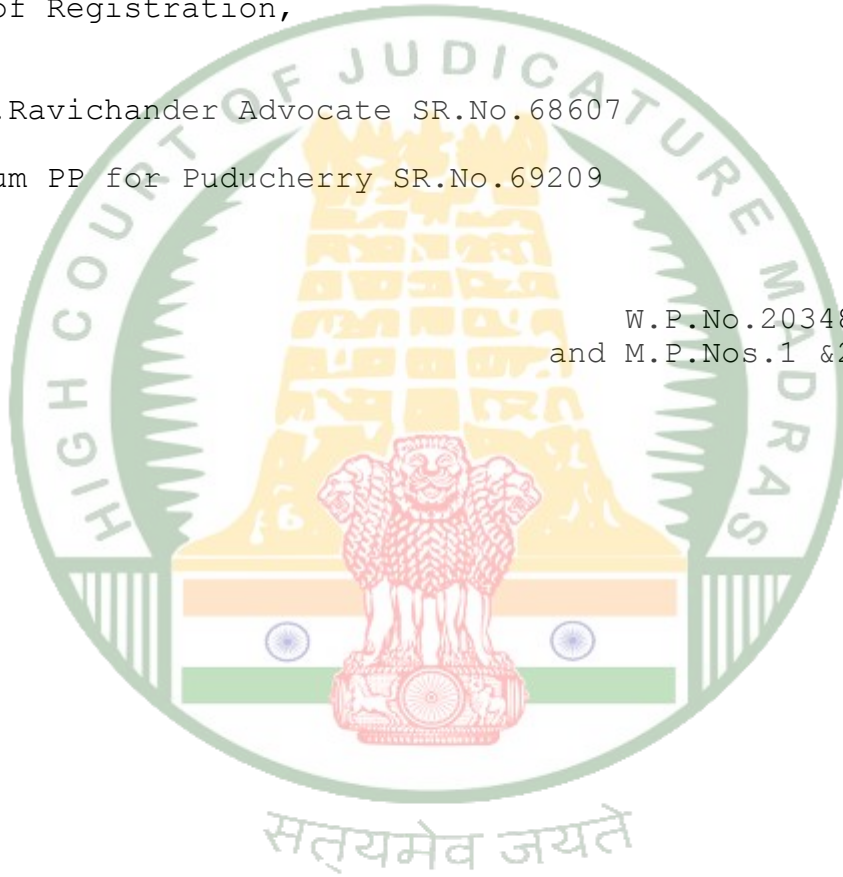
+1 CC Mr.D.Ravichander Advocate SR.No.68607

+1 CC GP cum PP for Puducherry SR.No.69209

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VSN [CO]

MSI 29/12/2016



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