

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 7.12.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.30644 of 2016

J.Kumaran

... Petitioner

Vs.

1. The Union of India
rep. by the Chief Secretary to Government
Government of Puducherry, Puducherry.
 2. The Secretary to Government (Revenue)
Government of Puducherry
Puducherry.
 3. The High Court of Judicature at Madras
Rep. by the Registrar General
Chennai.
 4. The State of Tamilnadu
Rep. by the Chief Secretary to Government
Government of Tamilnadu, Chennai.
 5. The Pondicherry Advocates Bar Association
Rep. by its General Secretary
District Court Complex
Mudaliarpet, Puducherry.
- .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the 3rd respondent to act upon only the Puducherry Court fees stamp papers or E-court fees Stamps printed or issued by 1st and 2nd respondent in respect of all Original, Appellate, Revisional, Review litigations arising out of the Jurisdictional limits of Union Territory of Puducherry and chargeable under the Pondicherry Court Fees and Suit Valuation Act, 1972.

For Petitioner

: Mr.J.Kumaran
Party-in-Person

For Respondents

: Ms.Reena Iswarya
Govt.Pleader (Pondicherry)
for respondents 1 and 2

Mr.R.Vijayakumar
Addl. Government Pleader
for 3rd respondent

Mr.M.K.Subramanian
Government Pleader
for 4th respondent

Mr.Balavijayan
for 5th respondent

ORDER

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

The petitioner, through the public interest litigation, seeks a writ of Mandamus directing the third respondent/Registrar General of this Court to act upon only the Puducherry Court fees stamp papers or E-court fees stamps, printed or issued by the Puducherry Government in respect of all Original, Appellate, Revisional, Review litigations arising out of the jurisdictional limits of the Union Territory of Puducherry and chargeable under the Pondicherry Court Fees and Suit Valuation Act, 1972.

2. It is the case of the petitioner that as per Section 4 of the Pondicherry (Administration) Act, 1962, this Court would have jurisdiction over the Union Territory of Puducherry. However, when litigation is filed, the Tamil Nadu Court fees stamp papers are wrongly being annexed by the litigants for all litigations arising from the Union Territory of Puducherry. This, in turn, results in revenue loss to the Government of Puducherry which goes to the credit of the Government of Tamil Nadu.

3. The petitioner refers to the Court Fees Act, 1870 to submit that the said Act continues to be in force by virtue of Article 372 of the Constitution of India and is a State subject as per the constitutional scheme, as per Entry 3 of List II of the VII Schedule to the Constitution. Thus, States have effected amendments to Court Fees Act, 1870. The Tamil Nadu Government also passed the Tamil Nadu Court Fees and Suits Valuation Act, 1955, but that would be for litigation arising

out of the State of Tamil Nadu. Insofar as the Union Territory of Puducherry is concerned, it has enacted the Pondicherry Court Fees and Suit Valuation Act, 1972. Thus, court fees is required to be paid by annexing or affixing the Puducherry Court fees stamp papers and not Tamil Nadu Court fees stamp papers. In this behalf, reference has been made to Section 4 of the Pondicherry Court Fees and Suit Valuation Act, 1972, which reads as under:

"Section 4. Levy of fee in Courts and Public offices. - No document which is chargeable with fee under this Act shall, -

- (i) be filed, exhibited or recorded in, or be acted on or furnished by, any Court including the High Court, or
- (ii) be filed, exhibited or recorded in any public office, or be acted on or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated as chargeable under this Act:

Provided that, whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is in the opinion of the Court necessary to prevent a failure of justice, nothing contained in this section shall be deemed to prohibit such filing or exhibition."

4. The aforesaid provision is required to be read with Rule 3A of the Puducherry Court Fees and Suits Valuation (Amendments) Rules, 2010, which reads as under:

"Rule 3A. Purchase and use of court fee stamps.- The court fee stamps purchased in the Union Territory of Puducherry shall alone be used for the payment of all fees chargeable under the Act."

5. The petitioner states that for all litigation arising out of Union Territory of Puducherry in respect of Original, Appellate, Revision, Review jurisdiction of this Court, court fees is levied under the Pondicherry Court Fees and Suit Valuation Act, 1972 and, thus, it is pleaded that affixation of the Tamil Nadu Court fees stamp papers for Puducherry litigations is actually an improper accumulation of the Government of Puducherry revenue into the account of the Tamil Nadu Government.

6. The State Governments as well as the Registrar General have filed counter affidavits. The Government of Puducherry agrees with what the petitioner states. The Tamil Nadu Government does not disagree with it, but submits that it is for the Registrar General of the High Court to take suitable steps.

The affidavit of the Registrar General of the High Court states that on the strength of the Pondicherry Court fees and Suit Valuation Act, 1972, none challenged the procedure being followed and it has continued in the same manner.

7. In our view, this is a matter which has apparently escaped attention at all levels till it has been brought to the notice of this Court now by the present petition.

8. The parties are ad idem on the issue and we are also of the view that the appropriate course of action would be to issue a direction in terms of the prayers made in the petition requiring that in respect of litigation relating to the Union Territory of Puducherry, court fees stamp papers or e-court fees stamps issued by respondents 1 and 2 alone should be used irrespective of the jurisdiction invoked of this Court.

9. The aforesaid can have immediate effect, but, in view of some transition period required, we give a window up to 31.12.2016 for the said purpose. This would necessitate the Government of Puducherry to make necessary arrangements for availability of the stamp papers and the State Government would coordinate with the Registrar General of the High Court for establishing the said process.

The petition, accordingly, stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Chief Secretary to Government
Union of India
Government of Puducherry, Puducherry.
2. The Secretary to Government (Revenue)
Government of Puducherry
Puducherry.
3. The Registrar General
High Court of Judicature at Madras
Chennai.

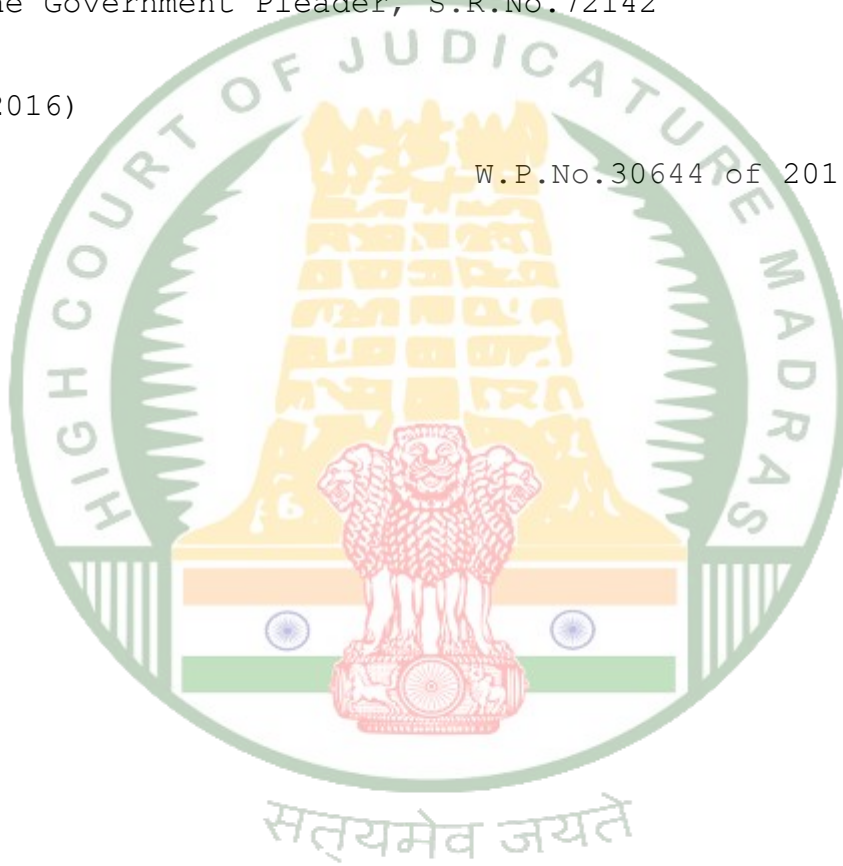
4. The Chief Secretary to Government
State of Tamilnadu
Government of Tamilnadu, Chennai.

5 The General Secretary
Pondicherry Advocate for Association
District Court Complex
Mudalbarpat Puducherry

+2cc to Mr.J. Kumaran, Advocate, S.R.No.72199
+1cc to Mr.Balavijayan, Advocate, S.R.No.72120
+1cc to the Government Pleader, S.R.No.72142

mg(CO)
md(16/12/2016)

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