

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.09.2016

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.33661 of 2016
and WMP No.29039 of 2016

K.B.Mammootty

... Petitioner

Vs.

1.The Appellate Authority (Land Reforms)
Mahe, Union Territory of Puducherry.

2.The Land Tribunal,
Mahe, Union Territory of Puducherry.

3.Mrs.Devootty

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue an appropriate Order, Directions or Writ including a Writ of Certiorari to call for the records relating to the impugned order of the first respondent in AA No:02/2007/115 dated 11.01.2016 and quash the same.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.C.T.Ramesh, AGP (P)
assisted by Mr.A.Tamilvanan,
Government Advocate (P) [R1& R2]

सत्यमेव जयते

O R D E R

The petitioner is the owner of the superstructure located in a land to an extent of 37 Sq.Mts comprised in R.S.No.62/2, Mahe Revenue Village, Union Territory of Puducherry. The land belongs to one Assoo. Originally, petitioner's father, Abdul Rahman, purchased the building (shop) in the year 1950 from Kannan. The said Assoo sold the land to one Govindan. The petitioner's father has also paid rent to the new landlord till 1972. After the death of petitioner's father, the petitioner succeeded to the leasehold right and has been paying the rent.

2. In the year 2003, the old building collapsed and even thereafter, the petitioner has been in possession of the land. U/s.80 of the Mahe Land Reforms (Amendment) Act, 1980, the said land got vested with the Government of Pondicherry and the Land Tribunal, Mahe was constituted. The Tribunal suo motu proceeded in SM-3/05-J and sent Form-E notices to the interested parties, namely, the petitioner and Mrs.Devootty, wife of Govindan, who is the owner of the land. Though proceedings were initiated, Mrs.Devootty and her children never attended the proceedings. The Tribunal, based on the available documents, passed an order on 21.10.2005 fixing the purchase price at Rs.140, which was remitted by the petitioner on 23.02.2006 and a purchase certificate has been obtained.

3. The petitioner also sold the property to Islahi Centre and handed over possession. When that is the position, Mrs.Devootty filed an appeal against the Land Tribunal's order dated 21.10.2005 before the Appellate Authority (Land Reforms) Mahe, in A.A.No.2/07 along with a petition to condone the delay of 604 days. The condone delay petition was allowed and the matter was remitted to the Land Tribunal to adjudicate the matter afresh as the land was standing in the name of Mrs.Devootty, the third respondent herein. The said order dated 11.01.2016 is challenged before this court.

4. Heard Mr.P.Rajendran, the learned counsel appearing for the petitioner and Mr.C.T.Ramesh, Additional Government Pleader (Pondicherry), appearing for the respondents 1 and 2.

5. It is evident from the records that, Mrs.Devootty is the only owner of the land. Though the order passed by the Appellate Authority is silent about reason for condoning the delay, it is a matter to be remitted for fresh adjudication as it is borne out by records, as referred to in the penultimate paragraph, that through document No:687/02, the husband of the third respondent, settled the property in her favour. Without taking into consideration the said document, purchase right has been given to the petitioner. Therefore, the remand of order is valid and the same is confirmed.

6. Even if no reason has been given for condoning the delay, the reason stated in the penultimate paragraph of the impugned order would itself take care of it. The matter has to be viewed as a whole and justice has to be rendered to the parties. Even if there is a delay, it has to be condoned. A perusal of the affidavit filed by the third respondent before the Appellate Authority would show that the third respondent was at Bombay along with her husband and there was no opportunity for her to know about the proceedings. Therefore it is clear that, no opportunity was given to the third respondent to put forth her case. Hence, condone delay as ordered by the Appellate Authority is valid. The Land Tribunal is directed to adjudicate the issue after giving notice to all the parties concerned within six months from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is dismissed. No costs.
Consequently connected Miscellaneous Petition is also closed.

dpq

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1.The Appellate Authority (Land Reforms)
Mahe, Union Territory of Puducherry

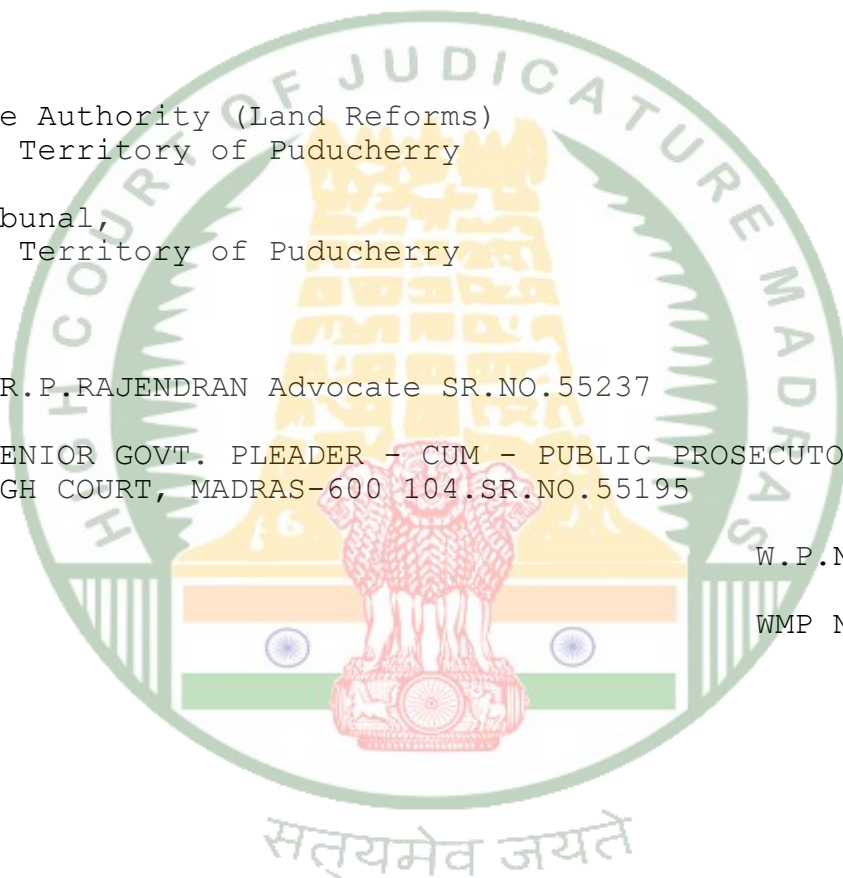
2.The Land Tribunal,
Mahe, Union Territory of Puducherry

+1CC to MR.P.RAJENDRAN Advocate SR.NO.55237

+1CC to SENIOR GOVT. PLEADER - CUM - PUBLIC PROSECUTOR FOR
PONDICHERRY HIGH COURT, MADRAS-600 104.SR.NO.55195

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and
WMP No.29039 of 2016

EV[CO]
MK:17/10/2016



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