

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2904 of 2016**

- Ramendra Sondhi S/o Late Avinash Chandra Sondhi Aged About 42 Years R/o Civil Line Church Raod, In Front Of Manas Bhawan Thana, Civil Line Tahsil Durg, District- Durg, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Inspector General Registration & Superintendent Of Stamps Chhattisgarh, Office At 11 New Tilak Marg, Avanti Vihaar, Thana Tati Bandha, District- Raipur, Chhattisgarh
2. Senior District Registrar Of Registration Of Collector Of Stamps, Office Of District Registrar Durg, Thana City Kotwali Durg,district- Durg, Chhattisgarh
3. Sub Registrar District Durg, Office Of District Registrar Durg, Thana City Kotwali Durg,district- Durg, Chhattisgarh
4. Tarun Sondhi @Taran Sondhi S/o Shri Ramesh Chandra Sondhi Aged About 37 Years R/o J/62 Surya Vihaar Apartment Model Town Nehru Nagar Bhilai, Thana Nehru Nagar Tahsil & District Durg, Chhattisgarh
5. Smt. Neerja Sondhi W/o Late Avinash Chandra Sondhi Aged About 61 Years R/o Civil Line Church Road Infront Of Manas Bhawan Thana Civil Line Tahsil, Durg, District Durg, Chhattisgarh
6. Meena Vadera W/o Late K.K. Vadera Aged About 45 Years [Officiating Sub-Registrar At Patan] Permanent Postal Address Office Of District Registrar Durg, Thana City Kotwali Durg, District- Durg, Chhattisgarh
7. Priyanka Shriange W/o Pankaj Shriange Aged About 35 Years [Then Officiating District Registrar, Durg] R/o District Panchayat Balod, District Balod, Chhattisgarh
8. K.P. Sharma S/o Shri Sharma Aged About 45 Years Permanent Postal Address Office Of District Registrar Durg, Thana City Kotwali Durg, District Durg, Chhattisgarh
9. Madan Lal Korpe Aged About 55 Years Senior Registrar Durg, Thana& District- Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Shri NK Malviya, Advocate
For Respondents-State	:	Shri UNS Deo, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

05/01/2017

1. Petitioner is aggrieved by the appellate order passed by the Senior District Registrar, Durg in appellate jurisdiction under Sections 72-73 of the Registration Act, 1908 (for short 'the Act, 1908').
2. Referring to the order passed by the Division Bench in the matter of **Sanjay Bajpai vs. State of Chhattisgarh & others¹**, learned counsel for the petitioner would submit that the alternative remedy provided under Section 77 of the Act, 1908 is not an absolute bar for entertaining the writ petition.
3. In the matter of **Sajnay Bajpai (supra)**, the Division Bench was faced with a situation where on refusal by the Sub-Registrar to register an instrument a writ petition was directly filed without availing the alternative remedy of appeal under Section 72 of the Act, 1908 whereas in the case at hand when the Sub-Registrar refused registration, the petitioner availed the alternative remedy of appeal before the District Registrar and having failed therein he has preferred this writ petition.
4. Section 77 of the Act, 1908 provides for remedy of suit in a case of order of refusal by Registrar. It says Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree

¹ WA No.239/2015 decided on 09.09.2015

directing the document to be re-registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

5. The remedy available to the petitioner is of filing a suit and not of filing an appeal. The Statutory remedy of suit cannot be by passed to directly entertain a writ petition.
6. The writ petition is not maintainable, it is accordingly dismissed reserving liberty in favour of the petitioner to prefer a suit under Section 77 of the Act, 1908. If such suit is preferred, it is expected that the trial Court shall decide the same expeditiously.

Sd/-

Judge

Prashant Kumar Mishra

Ashu