CHAPTER -7
FIELD STUDY REPORT

PROLOGUE:

The researcher undertook an empirical field study on the role of alternative dispute redressal methods in reducing the problem of judicial delays and arrears in the Courts with special reference to the disputes redressal machineries of Pondicherry. In this chapter, the researcher gives a brief account of the facts and propositions that were gathered during the said field study in the form of “Field Study Report”. The study deals with the analysis of the existence or non-existence of the crisis of judicial arrears and judicial delay in the different dispute redressal institutions of Pondicherry. It also included the study as to the extent to which, the ADR methods can work towards managing the problem of judicial delays and arrears in resolution of different types of disputes. The said field study was done with specific reference to the disputes resolution machineries of Pondicherry chosen randomly by the researcher within the limited period of the research study and as per the existed restrictions and circumstances of the different institutions. The institutions with respect to which the researcher was able to conduct said field study were The Courts at Pondicherry, The Labour Office Conciliation at Pondicherry, and the Union Territory of Pondicherry Legal Services Authority.

7.1 INTRODUCTION

In the previous chapters, the researcher had studied the various types dispute redressal methods, beginning with those functioning at the grass root level to the ones created under different statutes and conventions and ending with those mechanisms of redressing the disputes that has undergone changes and are functioning as the hybrids of the
different alternative dispute redressal methods. The said study was primarily within the theoretical framework. The functionality was tested upon only peripherally in connection with the observations and finding of various committees and commissions regarding its actual working.

The researcher undertook the field study in order to understand the actual working of the dispute redressal institutions with reference to the problem of Court congestion due to delays and judicial arrears. The field study included the statistical analysis and interpretation of the data in relation to the gathered fact and propositions. The empirical study of the research problem is for aiding the researcher to draw appropriate conclusions and suggestion and in that process appraising the legal and judicial reforms. Furthermore, the analytical study is aimed at identifying the functional bottlenecks that frustrated the achievement of the goals and objective thus widening the gap between the law in letters and its actual functioning.

7.2 PONDICHERRY

The dispute redressal institutions of Pondicherry were chosen for the field study by the researcher as, Pondicherry being a small Union Territory wherein it is practically possible for the study to be done with respect to the research problem within the limited period of the research. Another reason behind the choice of the dispute redressing institutions of the Union Territory of Pondicherry, India for the field study was due to its unique Political and Legal history, which is different from that of the legal and political history of rest of Indian.

Pondicherry is a Union Territory of India. The French connection with that of Pondicherry started in the year 1664 and lasted for nearly three hundred years. The French formerly ruled Pondicherry and at the
time of India's Independence in 1947, Pondicherry was under French control. It took almost seven long years of struggle for Pondicherry to achieve its freedom. During these years, Pondicherry witnessed spontaneous uprisings against its rulers culminating in the setting of a free government.

Pondicherry consists of four non-contiguous Districts or enclaves. It has currently undergone a name change to Puducherry. The name "Puducherry" means "new village" in Tamil. The French spelt it "Poudichéry", which is the closest French approximation to the Tamil pronunciation. At some point, the hand-written 'u' was mistaken for an 'n', and the misspelling stuck and came to be known as Pondicherry. Pondicherry consists of four small-unconnected districts: Pondicherry, Karaikal, and Yanam on the Bay of Bengal and Mahé on the Arabian Sea. Puducherry is the name of a Union Territory of India and its Capital in the south of India. The first two are by far the larger ones, and are both enclaves of Tamil Nadu. The territory has a total area of 492 km²: Pondicherry (city) 293 km², Karaikal 160 km², Mahé 9 km² and Yanam 30 km². It has 900 000 inhabitants (As per 2001 censes).

The Union Territory of Pondicherry was a French Colony until it was transferred to the Indian Government by an agreement, dated 21.10.1954 between France and India. However, it was only on 01.11.1954, the Indian Government took over the administration of Pondicherry under the Foreign Jurisdiction Act, 1947. The Indian Government issued two Notifications on 21.10.1954 and 30.10.1954 under the said Act. The first one called the French Establishments (Administration) Order 1954, and the other one called the French Establishments (Application of Laws) Order 1954. Again, the de jure transfer took place on 16.08.1962. The Jurisdiction of the Madras High
Court was extended to Pondicherry from that date. Through the Treaty of Cession, the process of legal mayor become complete after the 14th amendment in the year 1962. The Government of India issued the Pondicherry (Administration) Act, 1962 on 16.08.1962. Judicial Department has its existence since French regime and after the introduction of The Pondicherry Civil Courts Act, 1960 the erstwhile French Civil and Administrative Courts have been abolished. The Courts like the Tribunal Superieur d’ Appel, Tribunal de lere Instance, Tribunal de Grands Instance Com d’ Appel, Juge de Paix and Cour de Cassation have no cannotation after the above said Act has come into force. Instead, the Courts of District Judge, Courts of Subordinate Judges and Courts of Munsif have become the successors Courts.

**7.2.1 HISTORY OF PONDICHERY**

The researcher had taken a brief study of the evolutionary history of the Union Territory Pondicherry before conducting the field study in order to get a better understanding the nature of the different dispute redressal mechanisms existing in Pondicherry with reference to the research problem. The resultant report is hereunder.

The Periplus of the Erythraean Sea, of the early 2nd century AD, mentions a marketplace named Poduke, which Governor of West Bengal Huntingford identified as possibly being Arikamedu, about 2 miles from the modern Pondicherry. Huntingford further notes that Roman pottery was found at Arikamedu in 1937, and archeological excavations between 1944 and 1949 showed that it was "a trading station to which goods of Roman manufacture were imported during the first half of the 1st century AD".\(^{653}\)

\(^{653}\) Periplus of the Erythraean Sea - 2nd century - Arikamedu - 1937 - Archeological-1944 - 1949
Before this period, nothing is known with certainty. The "Bahur Plates", issued in the 8th century speak of a Sanskrit University that was in Pondicherry from an earlier period. Legend has it that the sage Agastya established his Ashram in Pondicherry and the place was known as Agastiswaram. An inscription found near the Vedhapuriswara Temple hints at the credibility of this legend. History continues at the beginning of the fourth century A.D. when the Pondicherry area was part of the Pallava Kingdom of Kanchipuram. Thereby in the next centuries Pondicherry was occupied by different dynasties of the south: in the tenth century A.D. the Cholas of Tanjavur took over, only to be replaced by the Pandya Kingdom in the thirteenth century. After a brief invasion by the Muslim rulers of the North, who established the Sultanate of Madurai, the Vijayanagar Empire took control of almost all the South of India and lasted until 1638, when the Sultan of Bijapur began to rule over Gingee.\footnote{www.spiritus temporis.com/Pallava - Kanchipuram - Cholas - Tanjavur - Pandya - Madurai - Vijayanagar - Bijapur - Gingee.}.

The acknowledgment for putting Pondicherry into the framework of strategic importance, as far as colonial scheme is concerned, rests with the French. The French East India Company set up a trading centre at Pondicherry in 1673. This outpost eventually became the Chief French settlement in India.

Dutch and British trading companies also wanted trade with India. Wars raged between these European countries and spilled over into the Indian subcontinent. The Dutch captured Pondicherry in 1693 but returned it to France by the Treaty of Ryswick in 1699. The French acquired Mahe in the 1720's, Yanam in 1731, and Karaikal in 1738. During the Anglo-French wars in the year 1742 to 1763, Pondicherry changed hands frequently. On January 16, 1761, the British captured
Pondicherry from the French, but the Treaty of Paris (1763) returned the city to the French. It was taken again by the British in 1793 amid the Wars of the French Revolution, but once again returned to France in 1814. When the British gained control of the whole of India in the late 1850s, they allowed the French to retain their settlements in the country. Pondicherry, Mahe, Yanam, Karaikal and Chandernagar remained a part of French India until 1954.

The freedom movement, in French dominated parts of India dates back from the days the British left India. However, even earlier there were agitations now and then against the French rulers. The independence of India in 1947 gave impetus to the union of France's Indian possessions with former British India. An agreement between France and India in 1948 agreed to an election in France's Indian possessions to choose their political future. The de jure union of French India with the Indian Union did not take place until 1962, although de facto, the bureaucracy had been united with India's on 1st November, 1954. It was organised as a Union Territory in 1963.

Pondicherry still has a large number of Tamil residents with French passports, whose ancestors were in French Governmental service and who chose to remain French at the time of Independence. Apart from the monuments pertaining to the French Period, there is the French Consulate in Pondicherry and several cultural organisations, and even the Foyer du Soldat for war veterans of the French Army. Of the cultural organisations the French Institute, the Alliance Francais and the Ecole Francais d'Extreme Orient are noteworthy. Right from the time India gained its independence from British rule in 1947, the issue of the French

656 1947 - British India - 1948 - De jure - 1962 - De facto - 1954 - 1963
settlements was raised with the Government of France. It took seven years for Pondicherry to achieve freedom. However, even earlier there were agitations now and then against the French rulers. In 1787 and 1791, farmers of Karaikal agitated against the heavy land tax imposed by the French. The first war of Indian Independence had its impact in the French settlements but it did not attract the attention of the rulers, as the incidents were few and considered as local. People employed legal means to fight against the French. In 1873, an advocate, Ponnuthammbi Pillai, moved the Paris Court and won the case in which he was awarded a penalty by a French Magistrate in Pondicherry for walking into the Court with footwear. There were student agitations in 1927 and 1930 that exhibited their sentiments. Leaders like Mahatma Gandhi, Jawaharlal Nehru and Bal Gangadhar Tilak visited Pondicherry and its other enclaves and addressed the meetings. In 1934, veteran freedom fighter and trade union leader V.Subbiah for the cause of workers and the country started “Swatantram”, a monthly. The Police control, which warranted trade union unrest, further increased the anger of the people against their rulers. In the late thirties, Mahajana sabhas were opened in Pondicherry and Karaikal. This organisation, along with trade unions organised the Non-Cooperation Movement. During the Second World War, Pondicherry supported France with men and materials. However, the youth became indignant when a large number of French-Indian soldiers died fighting in Europe.

7.2.2 LIBERATION OF MAHE AND YANAM

The conditions became intolerable in Yanam after its Mayor and other representatives of Yanam adopted the merger resolution. The mayor, deputy mayor, and over 200 people took refuge in the adjacent areas of the Indian Union. Police and hired hoodlums from Yanam
assaulted refugees on Indian soil. It was then that the refugees marched into Yanam under the leadership of Mayor Satyanandam and took over the administration. After hoisting the Indian National Flag, the liberators adopted a resolution declaring Yanam liberated. Close on their heels, in Mahe, the Mahajana sabha under its president; I.K. Kumaran began a picketing programme. Some days later, hundreds of volunteers marched into Mahe to stage a demonstration in front of the administrator's residence. The citizens of the enclave joined them. On July 16, 1954, Kumaran took over the administration from the French administrator marking the end of 224 years of French rule in Mahe.

Under the Indo-French Agreement of June 1948, the first municipal elections were held in Chandernagore, also a French territory. In August of the year 1948, the Congress Karmaparishad won 22 of the 24 seats. The new municipal assembly overwhelmingly voted for its merger with the Indian Union and the Government of India took control of Chandernagore on June 9, 1952. Later, it became a part of the Hoogly district of West Bengal. Thus with the liberation of Mahe and Yanam from French subjugation, Pondicherry became a part of the Indian Union. Thus, the study shows that, Pondicherry has a unique place in the history of the freedom movement in the country. It has played a twin role, first it had to fight for its own freedom and secondly, it gave active support to the Independence struggle against the British. Great nationalists like Aurobindo and Subramaniam Bharati took asylum in Pondicherry when Britishers were out to arrest them. During his stay in Pondicherry, Bharati edited "India" after it was banned in Madras by the British administration. It was in Pondicherry that the revolutionary V.V.

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657 Freedom Struggle In Pondicherry, V. Sankaran(p1-5)
Subramaniya Iyer gave arms training to Vanchinathan, the youth who later killed the then Tirunelveli Collector Ashe.

7.2.3 THE MERGER

In 1946, the French India Congress was formed with the objective of integrating the French possessions with India. Later the following year, the French India Students Congress adopted a resolution on merger. In January 1948, the French People's Convention passed a resolution expressing its determination to merge the French possessions with the motherland. The Communist Party also asked the people to accept only the merger.

The new Government under Jawahar Lal Nehru was anxious to integrate the French Indian territories with the country. India signed an agreement with France in June 1948, which gave power to the people for determining the political status of their land. Accordingly, the municipal elections in Pondicherry, Karaikal and Yanam were held in October 1948. The elections were rigged and the French India Socialist Party, a pro-French outfit, captured all municipalities except one. The new councilors at a meeting accepted the autonomy offered by the French Government.

As the freedom movement gathered momentum under V. Subbiah, the pro-French leader Eduard Goubert switched his loyalty to the pro-merger camp. A momentous event in the freedom movement of Pondicherry occurred on March 18, 1954, when the members of the executive council and mayors of Pondicherry and seven adjoining communes proclaimed their decision to merge with India without a referendum. All the communes in Karaikal also followed suit. This decision was to be confirmed by the Representative Assembly and when

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658 www.kar.nic.in/fnjpc/h-pondi.htm
the Socialist party was preparing to move the merger resolution, the French Governor scuttled it by postponing the session. Provoked by this, the Socialist party planned to capture the outlying communes one by one and move to Pondicherry. The Communist Party was also ready to launch a campaign of direct action to merge Pondicherry with India. Accordingly, the leaders of the Socialist Party hoisted the Indian national flag atop the Nettapakkam police station on the last day of March in 1954. Subsequently, many villages in Mannadipet and Bahour communes came under the sway of the pro-mergerists. In the Karaikkal region, all the communes and Karaikkal municipality passed a resolution in favour of merger. The National Youth Congress began a Satyagraha. A freedom fighters' procession was lathi charged and the flags carried by the processionists were seized and torn by the French Indian Police.

India and France, following talks, issued a joint statement on March 13, 1954 announcing a modality for deciding the status of the French settlements. Five days later the elected members of the Representative Assembly and the municipal councillors of Pondicherry and Karaikkal took part in a referendum at Keeloor. Of the 178 members voting, an overwhelming majority of 170 members favoured the merger of French Indian territories with the motherland. Three days later, an agreement on the defacto transfer of the French territories to India was signed in New Delhi between the two countries.

A treaty of cession was signed by the two countries in May 1956. The French Parliament ratified it in May 1962. On August 16, 1962, India and France exchanged the instruments of ratification under which France ceded to India full sovereignty over the territories it held. Pondicherry and the other enclaves of Karaikkal, Mahe and Yanam came to be administered as the Union Territory of Pondicherry from July 1, 1963.
7.2.4 IMPACT OF MERGER ON THE LAW

The transition or The De Facto Period is studied here under. Consequent to the agreement, on 1.11.1954 the Indian Government took over the administration of the establishment under the Foreign Jurisdiction Act, 1947 and for the purpose of carrying on the administration they issued two Notifications on 30-10-1954 under the Said Act. The First one called the French Establishment (Administration) Order, 1954, provided that all the laws in force in the French Establishments or any area thereof immediately before the commencement of the order shall continue to be in force until repealed by a competent authority. The Second one called the French Establishment (Application of Laws) Order, 1954 extended to Pondicherry 22 Indian Acts mostly relating to coinage, currency, customs and excise duties, imports and exports and exchange control. Neither the de facto agreement nor the above two orders do make it clear as to what was the legal status of Pondicherry during the de facto period.

The Supreme Court of India raised the question as to what was the real status of the Pondicherry. On the receipt of the answers from the government of India, the Supreme Court observed that the Pondicherry was not part of the territory of India. By the agreement, dated 21 October 1954 there was complete transfer of the administrative control of the Pondicherry to the Government of India. Such transfer cannot be equated to the transfer of territory that would take place only upon the ratification of the treaty of Cession and so Pondicherry was not considered to be within the territory of India.\(^\text{659}\)

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During the de facto period, revision petitions against the judgments of the “Tribunal Superieur d’ Appeal” in Civil and Criminal matters continued to be preferred before the Court de Cassation in Paris and the appeal against the decision of the Conseil de Contentieux Administratif were preferred before the Conseil d’ etat in Paris. They decided the cases before the defacto merger but even those filed after de facto merger.

The laws enacted in France, as per the provisions, which were in force at the time of de facto merger, could be applied to Pondicherry only if promulgated by the governor in Pondicherry. However, no such laws were promulgated by the Indian de Facto administration. Pondicherry was de jure a French territory in which the local promulgation was necessary for the application of the French Parliament. On the other side, such local promulgation was impossible because of the de facto transfer. Thus, because of change in the pattern of law and uncertainties and lacuna arising there from the parties were led to face the difficulties. Hence, a Dead–Lock was created.

The beginning of De Jure Transfer took place when the treaty of Cession was signed in the year 1956 and it came into effect on 16 August 1962 by the exchange of instrument of ratification. The de jure transfer took place on 16-8-1962. The Jurisdiction of Madras High Court was also extended to Pondicherry from that date. This process of legal merger became complete when by the 14th amendment of the Constitution in 1962, Pondicherry was put in the list of the Union Territories of the Republic of Indian Union. The Government of India issued the Pondicherry (Administration) Act, 1962 on 16-8-1962. Section 4(1) of the above Act retreated the principle proclaimed at the time of the de facto merger.  

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660 Justice David Annousamy, French Legal System (Ch-XVII )P176-191
merger that all laws in force immediately before, in the French Establishment, shall continue to be in force until amended or repealed. All laws contrary to the fact of Pondicherry being merged within the Indian Union and all laws being contrary to the status of Pondicherry being a Union Territory within the meaning of the Indian Constitution have been impliedly repealed\textsuperscript{661}.

The Pondicherry (Administration ) Act, 1962 provided that the Central Government may, for the purpose of facilitating the application of the pre-existing French laws in relation to the administration of Pondicherry and for the purpose of bringing the provision of any such law into accord with the provisions of the Constitution, within three years, make such adaptations and modifications as may be necessary or expedient. However, there is not instance of such adaptations and modifications\textsuperscript{662}.

The provisions of the Pondicherry (Administration) Act, 1962 enables the Central Government to extend to Pondicherry by notification in the official gazette, any enactment in force in any State in India, with such restrictions and modifications as they think fit. After the de jure merger two massive extension took place, one by Pondicherry (Law) Regulation, 1963 by which 160 Acts were extended and the other one by the Pondicherry Extension of Laws Act, 1968 by which 95 Acts were extended. Thus, by the process of extension of laws and also by the new laws enacted by the Indian Parliament and the Pondicherry Legislature the basic legal fabric of Pondicherry has been completely modified. After the process of extension of laws, the basic legal fabric has become Indian and the French Laws that remains unaffected by the process of repeal.

\textsuperscript{661} Justice David Annousamy, French Legal System (Ch-XVII )P178.
\textsuperscript{662} Justice David Annousamy, French Legal System (Ch-XVII )P179.
either directly or indirectly. The legal fabric in Pondicherry has become Indian but there are still some areas in which French Law continues to apply. Firstly, on the French Nationals of Indian origin who are governed by the Code Civil as modified from time to time in France in matter of Personal Law. Secondly, those who during the French regime, have renounced their personal status and chosen to be governed Code Civil and who did not opt to remain French at time of cession and have, therefore, become Indian nationals, are still governed by the Code Civil in respect of personal law. A saving clause was added to enactments in the field of personal laws which were extended, to the effect that those Acts would not apply to Renoncants. Renoncants are those Indians of any religion who during the French period have opted to be governed by the Code Civil in matter of personal law in the place of their customary personal law. The process of Indianisation of laws was accompanied by the modification of the judicial set-up in Pondicherry through the Pondicherry Civil Courts Act in 1966 that became effective from 5.9.1968.

7.2.5 THE JUDICIARY AFTER 1816

A Royal ordinance of 23 December 1827 effected certain substantial changes in the judicial organisation of the establishment. It established at Pondicherry a Court of the Justice of the Peace with jurisdiction over Pondicherry and its three dependencies. The Court was composed of the Lieutenant of Police who acted as judge, an alternate judge and a "greffier". The Court functioned as a Court of the Justice of the Peace in civil disputes and a police Court in criminal cases involving minor offences (contraventions de police). The functions of the ministere

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664 www.pon.nic.in/rti/judicial/chapter3.pdf
public were to be performed by the Inspector of Police when the Court sat as a police Court.

The 1872 ordinance also set up a Tribunal of First Instance at Pondicherry with the same territorial jurisdiction as that of the Court of the Justice of the Peace. The tribunal consisted of a King's judge and two judge’s auditeurs (assistant judges). Attached to it were a King's procureur, two greffiers, one European and the other Indian and a clerk. In case of absence of inability of the King's judge to attend to his work, a conseiller auditeur, appointed by the Administrator General was to officiate for him. It had jurisdiction to decide in the first and last instance civil actions, personal or pertaining to movables, where the principal value of the suit was not below 48 francs (Rs.20 in Indian Currency) and did not exceed 480 francs (Rs.200 in Indian Currency) and commercial actions where the value did not exceed 480 francs. It heard and decided in the first instance civil cases relating to real property and mixed actions, as well as personal actions and those relating to movables where the value of the suit exceeded 480 francs.

7.2.6 THE JUDICIARY UNDER THE FRENCH INDIA

Voluntary arbitration has been always been recognised by French Law. In case of mercantile firms, arbitration was formally compulsory but in 1856 jurisdiction, relating to disputes between parties was conferred on the Tribunals of Commerce. This subject is dealt with in the Code of Civil Procedure. Until the end of 1935, the law of arbitration in France dealt with the sub-missions of existing disputes only. Clauses were sometimes incorporated in contracts providing that English law should govern them and thus rendering the reference of future disputes possible. The Arbitration Law of 1935 for the first time introduced enforcement of
legal system in France. It is to be noted that a distinction is drawn between the formal submission of an existing dispute and an agreement to submit future disputes in France. So far as the latter is concerned, it arose out of definite legal relationship between the parties. It is a common form of arbitration in France. The French Court excludes arbitration that is not based on formal submission.

The judicial organisation under the French Indian establishments from 1842 to 1963 was based on an ordinance of February 7, 1842 as amended from time to time. In 1963, a few substantial changes were made, but it was only in 1968 that a total change in the system took place.

The ordinance of 1842 sought to reorganize the whole system of judicial organisation. The Article 4 expressly stated, for instance, that judges could not disturb in any manner the work of the administrative bodies, nor summon before them administrators, on account of their functions, as otherwise they would be charged with abuse of authority. This clear-cut separation of powers was a great revolutionary change from the position adopted by the sovereign council over a century before. This "ordinance" was amended in certain details, among others, by a Decret of July 29, 1939 which downgraded the Court of appeal into a superior tribunal of appeal, by the Decret of March 1, 1879 which gave extended jurisdiction to the Court of Justice of the Peace in Mahe and Yanam and by the Decret of May 11, 1934 which abolished the Courts of the Justice of the Peace with ordinary jurisdiction. The Decret of August 22, 1928, however, made certain substantial changes.

The Courts in the establishments as constituted before the de facto cession in 1954 consisted of the following:-
Superior Tribunal of Appeal (Tribunal Superieur d' Appel) at Pondicherry with a President, two other judges, and a Procureur de la Republique.

Tribunal of First Instance, second class, at Pondicherry with a President, a Judge and Assistant Judge (Juge Suppleant) and a Procureur de la Republique.

Tribunal of First Instance, third class, at Karaikal, with a President, an Assistant Judge and a Procureur de la Republique.

Courts of Justice of the Peace with extended jurisdiction (competence etendue) at Mahe and Yanam, each consisting of one judge and a greffier.

The Procureur de la Republique at the Superior Tribunal of Appeal performed the functions of the head of the Judicial Department.

With the abolition of the Courts of the Justices of the Peace with ordinary jurisdiction, the right of appeal of the litigants whose cause was of small pecuniary value or who were convicted of minor infractions of the criminal law was taken away from them. The principle that every litigant has a right of appeal to a higher Court was not disputed; but it was considered unnecessary to have an appeal where the pecuniary value of the suit or the penalty likely to be imposed was insignificant. Those disputes were sought to be placed, under the decret of June 22, 1934, before a judge belonging to the second decree of jurisdiction, that is, the President of the Tribunal of First Instance, or a judge delegated by him. These Justices with enhanced competence had the same jurisdiction in civil matters as that of the Tribunal of the First Instance. When the Justices of the Peace with enhanced competence sat as Police Tribunal
(Tribunal de Simple Police) to try persons charged with petty offences. They could impose a sentence of simple imprisonment for five days or a fine of fifteen francs. It was from such sentences that there was no provision for appeal. The Superior Tribunal of Appeal at Pondicherry, however, acted in these petty matters as a Court of Cessation, in place of the Cour de Cassation at Paris.

7.2.6.1 TRIBUNAL OF FIRST INSTANCE

The General jurisdiction (Tribunal de Premiere Instance) was vested in the Tribunal of First Instance. It had jurisdiction over all disputes of a civil nature, which were not referable to any special tribunal by any express provision of law. Over cases, whose pecuniary value was not more than Rs.900 (Nine Hundred) it had jurisdiction in the last instance, that is, its decisions were not subject to appeal. The Decret of 31 May 1873 had specifically stated that when the tribunal decided disputes in personal and commercial matters where the amount involved was not more than Rs.900/- (1,500 francs) as principal, and actions relating to immovables where the revenue was Rs.30/- calculated on the basis of amount of lease or rent, actions relating to immovables other than houses, buildings or gardens liable to a land tax of Rs.7.20 a year, there was no appeal, but there could be review by Cour de Cassation. When the pecuniary value was over Rs.900/- there was provision for appeal to the Superior Tribunal of Appeal.

In its criminal jurisdiction, the Tribunals of First Instance sat as correctional Court and dealt with infractions of law for which the punishments imposed were known as correctional penalties, that is, imprisonment from six days to five years, a fine of more than 15 francs with suspension of civil, political and personal rights. It was generally the
Assistant Judge who presided over the Correctional Court under the authority delegated to him by the President of the Tribunal. Presiding also over the Police Court, he tried cases of minor infractions for which the punishment provided was imprisonment for one to five days and fine of one to 15 francs.

It was the duty of the Procureur de la Republique to set in motion criminal proceedings. In case of inaction on his part, it was for the injured party to initiate proceedings in the criminal Court.

The Justices of Peace with enhanced competence at Mahe and Yanam had the same powers and functions as the Tribunal of First Instance. They dealt with matters within the jurisdiction of the Tribunals of First Instance as well as those within the jurisdiction of the Justices of the Peace with ordinary jurisdiction. They decided the latter category of cases in the last instance. The decisions they handed down in the exercise of their enhanced powers as a Court of First Instance were appealable before the Superior Tribunal of Appeal at Pondicherry.

7.2.6.2 SUPERIOR TRIBUNAL OF APPEAL

The collegiate principle was scrupulously followed in the Superior Tribunal of Appeal. Three judges sat together and heard appeals from the Tribunals of First Instance as well as from the Courts of the Justice of the Peace and also heard appeals against provisional orders passed by the President of the Tribunal of First Instance and that of the Commercial Court in refer proceedings. While performing the functions of a Cour de Cassation in matters referred to it by tribunals exercising powers of the Justices of the Peace with ordinary jurisdiction, it was a three-man bench that deliberated and handed down decisions.
7.2.6.3 COUR DE CASSATION, PARIS

There was provision for the decisions of the Superior Tribunal of Appeal and those of the Tribunal of First Instance which were not appealable, to be challenged, on questions of law, before the Cour de Cassation in Paris. The principle of "double degree of jurisdiction" enshrined in French Jurisprudence stipulated that there should be one appeal and only one in a law suit. The one exception to this principle was in the case of petty litigation where there was no provision for appeal. There was also no appeal from a decision of Cour d'assises (Session Court).

The Cour de Cassation would not reopen or rehear the case on questions of fact or on the evidence. It considered only the question of law raised by the petitioner before it and either it would dismiss the petition or remand the case. When it decided to remand the case it would remand to a Court of equal rank and jurisdiction as the one by which the impugned decision was rendered or occasionally to the same Court as used to be done in the case of appellate tribunal at Pondicherry - with a direction that the remanded case should be tried by a bench consisting of judges different from those who had previously tried it.

With the cession of the French establishment into the Indian, Union powers of cassation vested in the Cour de Cassation were transferred to the High Court of Judicature at Madras.

7.2.6.4 JUDICIAL OFFICERS

The judges who manned the tribunals in the early days of the French administration in India had no legal qualifications. Merchants and tradesman used to sit as judges in the tribunals established during the
period. A statement made by the President of the Court at Chandernagore would reveal the position. He said, “In fact, the labyrinth of laws so extensive, the profession of the judge so difficult and the multiplicity of forms so complicated, that those who have made a hard study all their life can hardly flatter themselves of being informed well enough not to lose their way. How then can those who have only common sense coupled with the highest integrity remain unaffected by the fear of unjustly depriving their fellow citizens of honour, wealth and perhaps of life?"

The position of the judge was therefore not enviable. A complete reorientation of the magistracy was effected by a decret of August 22, 1928. The decret laid down rules which were to govern the colonial judiciary.

Various categories of persons were eligible for appointment to the colonial judiciary. They included advocates, notaires and avoues in the colonies holding the degree of licentiate in law who had practised their profession for ten years, professeurs and agreges of the state faculties of law and lecturers of state faculties of law with experience of two years, and chief registrars of the Courts of appeal and Civil Courts in the metropolis, holding the degree of licentiate in law and having put in at least ten years of service. It is important to note that weightage was given to legal practice when appointing magistrates to the colonial judiciary.

Certain educational qualifications and practical experience were regarded as essential for appointment as Justices of the Peace with ordinary jurisdiction. According to the decret, no one could be appointed to the position unless he had obtained the degree of licentiate in law and had undergone training for two years either at the Bar, or in the office of a
notaire or avoue, or on the office of a greffier or as attache in a parquet general of colonies or territories under the ministry of colonies. Avoues who had fifteen years of experience in the colony were exempted from the requirement regarding the holding of the degree of licentiate. With a few exceptions, all candidates were expected to pass a professional test.

Perhaps the most important characteristic of the French judiciary is what is known as inamovibilite (irremovability). To be inamovible means that the incumbent cannot be removed, suspended or transferred except under conditions contemplated in clean legal provisions. Their removal, suspension or transfer is therefore not in the discretion of the executive. The principle of inamovibilite was however, inapplicable to the judicial officers in the administrative departments and in the ministere public.

In order further to ensure their independence and impartiality, there was a promotion committee at the Ministry of Colonies which drew up a promotion list. The Committee was composed of a president of a chamber and three judges of the Cour de Cassation, nominated every year jointly by the Minister of Justice and the Minister of Colonies, three magistrates from the colonies nominated by the Minister of Colonies with the consent of the Minister of Justice, the Director of Personnel in the Ministry of Colonies and the Chef de Cabinet in the Ministry of Colonies. Promotions were generally made in the order of inclusion in the promotion list except for appointment to the post of Procureur de la Republique.

7.2.6.5 MAGISTRATE DEBOUT

There was a Procureur General attached to the sovereign Council set up by the edict of 1701. He was generally the last of the councillors, sometimes a sub-dealer. Apart from the duties laid down by the edict of 1707, he was also expected to safeguard the interests of the company. He
upheld the rights of the company in the territories that had been gifted to it. As the person in-charge of all unclaimed estates, he could dispose of them and sent the sale proceeds and the relevant deeds to the company. It was his duty to see that law and order was maintained and he asked for appropriate sanctions from the council for the purpose. When in 1738 some clever counterfeiters introduced into the establishments gold coins of an assay inferior to that in use there, the Procureur General induced the council to issue an arrete imposing a fine and fifty lashes of the whip for those who uttered counterfeit coins.

Officers of the ministere public attached to all regular Courts acted as public prosecutors in the conduct of serious criminal cases, as joint party in civil cases to present the public interest.

The ministere public was headed by the Minister of Justice. The designation given to the head of the ministere public before a Court of First Instance as well as before a Superior Tribunal of Appeal was Procureur de la Republique. The members of the ministere public, like the judges, were called 'Magistrates'. They were considered equal to judges drawing the same salary as judges in corresponding positions and sat on a special dais in the Court room separately from the judges. The qualifications for appointment, conditions of service and rules regarding promotion were the same for them as for the judges, except that they did not enjoy immovability.

The ordinance of February 7, 1842 provided that the Court should deliver judgment only after hearing the procureur in his address to the Court. He was not present when judges deliberated to decide upon the judgement to be passed, but his presence was necessary in deliberation relating to order, internal service and discipline.
Though procureurs were expected to represent the Government, they actually did represent the public interest. They would, for instance, prepare and file written papers according to the orders of their superiors, but while expressing their view before the Court they could say what they thought fair and just, irrespective of the position taken in the papers submitted. As the French would say, the pen is slave but the word is free.

The decret of August 22, 1928 laid down the qualifications required for appointment as attaches in the parquet general of the colonies. It provided, among other things, that the attaches should be holders of the degree of licentiate in law and must have passed the professional test for judicial posts. The attaches, if found suitable, were asked to officiate as temporary judges and after a period of probation, they were generally appointed judges in the colonies.

There were two Procureurs de la Republique at Pondicherry, one before the Tribunal of First Instance and the other before the Superior Tribunal of Appeal. The procureurs at Karaikal, Mahe and Yanam were required to perform the same duties as the Procureur de la Republique, but under the guidance of the Procureur de la Republique before the Superior Tribunal of Appeal at Pondicherry.

7.2.7 THE EXTENSION OF CENTRAL ENACTMENTS

It was after the transfer of the Administrative Powers in the French Establishments by the Government of France to the Union of India, the Union Government extended the application of a number of Central enactments to these establishments by various legal procedures with a view to providing for proper administration. In the very year of de facto session as many as forty-four central enactments were extended to the Establishments by the French Establishments (Application of Laws)

After the adoption of the Constitution (Fourteenth Amendment) Act, 1962 which made these Establishments a component unit of the Indian Union and turned them into what is known as the Union Territory of Pondicherry, all enactments passed by Parliament automatically apply to this Territory, except where the legislature specifically provides for the exclusion of the Territory from the application of an enactment.

As Central enactments passed prior to the date of the de jure cession did not apply to Pondicherry, various methods were adopted to extend the application of such enactments to the Union Territory. By the adoption of the Pondicherry (Laws) Regulation, 1963, provision was made to bring into operation in Pondicherry 160 Central enactments by October 1, 1963.

### 7.2.7.1 REORGANISATION OF THE JUDICIARY

With the introduction of the Indian Penal Code and the Code of Criminal Procedure into Pondicherry from October 1, 1963 it became necessary to reconstitute the Criminal Court in the Territory. Consequently, a Court of Sessions and a few Magistrates' Courts were set up. The Union Territory was brought under one sessions division and the former Superior Tribunal of Appeal was constituted a Court of Sessions and the President of the Tribunal was appointed Principal Sessions Judge, the two judges as Additional Sessions Judges and the Procureur de la Republique, as Public Prosecutor. The President of the Tribunal was also designated head of the Judicial Department.
The Tribunals of First Instance at Pondicherry and Karaikal were turned into Assistant Sessions Judges' Courts with the Presidents of the Tribunals appointed Assistant Sessions Judges. The (Judge d'Instruction) Investigating Judge of the Territory at Pondicherry was appointed District Magistrate and the Assistant Judge (Jude-Suppleant), a First Class Magistrate and the Procureur de la Republique, Public Prosecutor. The Assistant Judge at Karaikal who carried out in addition to his normal duties, the duties of the investigating judge and of the Justice of the Peace was made a First Class Magistrate and the Procureur de la Republique, Public Prosecutor. The Justice of Peace in Mahe and Yanam who presided over Courts with extended jurisdiction (competence etendue) were made First Class Magistrates.

As for the Civil Courts, a reconstitution of the civil judicial system took place when the Pondicherry Civil Courts Act, 1966 was brought into operation on September 5, 1968. According to Section 6 of the Civil Courts Act, the Superior Tribunal of Appeal became a District Court, the Tribunals of First Instance at Pondicherry and Karaikal became Subordinate Judge's Courts and the Courts of the Justice of the Peace were turned into Munsiffs' Courts. The President and the Judge of the Superior Tribunal of Appeal at Pondicherry were to function respectively as Principal District Judge and Additional District Judges. The Presidents of the Tribunals of First Instance at Pondicherry and Karaikal were to become subordinate judges and the Justices of the Peace and those who performed the duties of such Justice, were made Munsiffs within their respective territorial jurisdiction. It was also provided that a District Judge sitting singly would exercise all the powers of the Superior Tribunal of Appeal in respect of all pending cases and cases remanded by the High Court in exercise of its powers as Court of Cassation.
Unlimited pecuniary jurisdiction was given to the District Court and the Subordinate Judge's Courts. The pecuniary jurisdiction of the Munsiffs' Courts was limited to Rs.5,000/- and the jurisdiction of the Subordinate Judge's Courts in small causes was fixed at Rs.1,000/- and that of the Munsiff's Court at Rs.500/-.

Under the provisions of the Civil Courts Act, the office of the Procureur de la Republique was abolished as also the Conseil du Contentieux Administratif.

Appeal from the decision of the District Judge would be to the High Court of Judicature at Madras. Apart from the District Court at Pondicherry there are three Subordinate Judges' Courts, one at Pondicherry, one each at Karaikal and Mahe and three District Munsiffs' Courts one at Pondicherry and one each at Karaikal and Yanam.

7.3 THE PRESENT STRUCTURE OF JUDICIARY

The Pondicherry Civil Court Act, 1966 was passed to consolidate and amend the law relating to the Civil Courts in the Union Territory of Pondicherry. Under this Act, the Court of the District Judge, The Subordinate Judge's Court, and The Munsiff's Court were established. Pondicherry Judicial Service Rules were first framed in 1980. At present, Pondicherry Judicial Service (Cadre and Recruitment) Rules, 1996 govern the recruitment and conditions of service of the Subordinate Judiciary in the Union Territory.

At present, there are three cadres, namely, the First cadre includes District Judges, Additional District Judges-cum-Chief Judicial Magistrate, Sessions Judges, Additional Sessions Judges. The Second
cadre includes the Civil Judges (Senior Division), and third cadre includes Civil Judges (Junior Division), Judicial Magistrate of First Class, and all under the control of the High Court of Tamil Nadu.

The initial recruitment to the post of Civil Judge (Junior Division), Judicial Magistrate of First Class is done by direct recruitment on the basis of written examination and viva-voce conducted by the High Court from amongst the advocates with not less than three years practice at the Bar or Assistant Public Prosecutors with minimum of three years service inclusive of practice as advocate at the Bar. After appointment, the appointees will be on probation for a period of two years. During the period of probation, they are required to undergo such training as may be specified by the High Court.

At present, there are 10 posts of Civil Judges (Junior Division) Judicial Magistrates. The post of Civil Judge (Senior Division) is purely the promotional post from the cadre of Civil Judge (Junior Division or Judicial Magistrate of First Class) on the basis of seniority-cum-merit. The cadre of District Judge, Additional District Judge-cum-Chief Judicial Magistrate, Sessions Judge, Additional Sessions Judge is a mixed cadre, consisting of promotees from the cadre of Civil Judges (Senior Division) and direct recruits. Not exceeding 32% of the posts in the cadre may be filled by direct recruitment from amongst the advocates with not less than seven years practice at the Bar. The remaining 68 % of the posts shall be filled up by promotion on the basis of seniority-cum-merit from the cadre of Civil Judges (Senior Division). The direct recruits will be on probation for a period of two years. During that period, recruits should undergo such training as may be specified by the High Court. At present, there are five posts in the cadre. The control of the Pondicherry Subordinate Judiciary vests with the Hon'ble High Court, Madras.
7.3.1 COURTS IN THE UNION TERRITORY OF PONDICHERRY

The District and The Sessions Courts functioning in the Pondicherry region are as follows:

- Court of the Principal District and Sessions Judge.
- Court of the II Additional District and Sessions Judge.
- Court of the III Additional District and Sessions Judge.
- Family Court

Subordinate Courts functioning in the Pondicherry region are:

- Court of the Principal Sub Judge.
- Court of the Additional Sub Judge.
- Court of the Special Officer-cum-II Additional Sub Judge.

District Munsif Courts functioning in the Pondicherry region are:

- Court of the Principal District Munsif.
- Court of the I Additional District Munsif.
- Court of the II Additional District Munsif.
- Court of the III Additional District Munsif.

Magistrate Courts functioning in the Pondicherry region are:

- Court of the Chief Judicial Magistrate.
- Court of the Judicial Magistrate-I.

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- Court of the Judicial Magistrate-II.

The Courts functioning in the Karaikal region of Union Territory of Pondicherry region are as follows:

- Court of the Additional District and Sessions Judge.
- Court of the Additional District Munsif-cum-Judicial Magistrate-II.
- Court of the Principal District Munsif-cum-Judicial Magistrate-I.

The Court functioning in the Mahe region of Union Territory of Pondicherry region is the Court of the Sub Judge-cum-Judicial Magistrate.

The Court functioning in the Yanam region of Union Territory of Pondicherry region is the Court of the Sub Judge-cum-Judicial Magistrate.

### 7.3.2 FUNCTIONS OF THE COURTS

Adjudication of the disputes of civil nature brought before the Civil Courts and the Administration of Justice on the cases brought before the Criminal Courts by the prosecution in respect of the criminal offences committed by the accused persons are the main functions of the respective Courts. The Courts perform their judicial function after analysing the oral and documentary evidence adduced by the disputed parties in civil cases and in criminal cases on the side of the prosecution as well as by the defence. If the offence complained of is proved beyond the reasonable doubt in criminal cases, or if the rights claimed of is proved to be violated in civil cases the Court imposes punishment and passes the awards as per the circumstances of the cases and facts proved before it, and thus establishes justice. In criminal cases, if the offence is
proved the accused is awarded with the sentence of imprisonment or fine or both and if the offence is not proved beyond all reasonable doubt, to acquit the accused by setting him at liberty.

7.3.3 ORGANISATIONAL STRUCTURE

The Organisational Structure of the department can be classified into two categories, namely, (i) in respect of Judicial Officers and (ii) in respect Subordinate Staff (other than Judicial Officers)

Under the Pondicherry Judicial Service (Cadre & Recruitment), 1996, the recruitment, appointment by transfer on deputation and promotion of Judicial Officers from one cadre to another cadre shall be made by the Administrator on the recommendation of the Hon'ble High Court, Madras. Transfer and posting of all the Judicial Officers shall be made by the Hon'ble High Court, Madras.

Under the Pondicherry Judicial Subordinate Service Rules, 1979, the recruitment, promotion of staff from one cadre to another cadre shall be made by the Chief Judge, Pondicherry on the basis of the recommendation of the Selection Committee constituted under the said rules. There is a separate Recruitment Rules for the post of Head Sarishtadar called "Head Sarishtadar Recruitment Rules, 1990".

7.3.4 JUDICIAL DEPARTMENT POWERS ON THE ADMINISTRATIVE SIDE

The Chief Judge, Pondicherry is the Principal District and Sessions Judge, Pondicherry and the Head of Department. He is the Chairman of the Selection Committee constituted under the Pondicherry Judicial Subordinate Service Rules, 1979. He is the Controlling Officer of all the Subordinate staff and Judicial Officers of the rank of Civil Judge (Senior
Division and Junior Division Judicial Magistrate). He is the Appellate Authority for all the Group 'C' and 'D' staff of Judicial Department and has the Inspective authority of Subordinate Courts of the Union Territory of Pondicherry. He is also the Chairman of the District Legal Services Authority.

The Special Officer Pondicherry is the Head of Office, District Court, Pondicherry. He is the Disciplinary Authority for Group 'C' and 'D' staff of District Court, Pondicherry. He discharges the functions of the Procureur de la Republique system under the French system and discharges the functions of Special District Registrar under the Pondicherry Registration of Births and Deaths Act, 1969.

The Chief Judicial Magistrate of Pondicherry is the Head of Office of the Magistrate Court at Pondicherry. He is the Disciplinary Authority for Group 'C' and 'D' staff of Magistrate Court, Pondicherry. He has the inspective authority of all Magistrate Courts in the Union Territory of Pondicherry. He is also the Ex-officio member of the District Legal Services Authority.

The Principal Sub Judge, Pondicherry is the Head of Office of all the Sub Court, Pondicherry. He is the Drawing and Disbursing Officer. He is the disciplinary Authority for Group 'C' and 'D' staff of Sub Court, Pondicherry. He is the Secretary of the District Legal Services Authority.

The Principal District Munsif, Pondicherry is the Head of Office of the Munsif Court, Pondicherry. He is the Drawing and Disbursing Officer. He is the Disciplinary Authority for Group 'C' and 'D' staff of Munsif Court, Pondicherry.
The Additional District Judge, Karaikal is the Head of Office of the Karaikal District Court. He is the disciplinary Authority for Group 'C' and 'D' staff of Karaikal Munsif Court and is the Chairman of the Karaikal Taluk Legal Aid Committee.

The Sub Judge-cum-Judicial Magistrate, Mahe is the Head of Office of Sub Court, Mahe. He is the Drawing and Disbursing Officer. He is the Disciplinary Authority for Group 'C' and 'D' staff of Sub Court, Mahe. He is the Chairman of the Taluk Legal Aid Committee.

The Sub Judge-cum-Judicial Magistrate, Yanam is the Head of Office, Sub Court, Yanam. He is the Drawing and Disbursing Officer. He is the Disciplinary Authority for Group 'C' and 'D' staff of Sub Court, Yanam and the Chairman of the Taluk Legal Aid Committee.

The Inspector of Processes, Judicial Department, Pondicherry does the work of Supervising the Process Service Establishment (Nazarath) in District Court, Pondicherry.

The Additional District Munsif cum- Judicial Magistrate II, Karaikal apart from performing the Judicial work, discharges the functions of the Procureur de la Republique system under the French system as Additional Special Officer. The Judge, Family Court, Pondicherry is the Head of Office of the Family Court, Pondicherry.

7.3.5 FINANCIAL POWERS IN THE JUDICIAL DEPARTMENT

The Financial powers are vested with the Judicial Officers of the Department in the capacity of Head of the Department and Heads of Offices. The financial powers are discharged as contained in GFR, DFPR and other rules adopted by the Government of Pondicherry and as contained in the G.O.Ms.No.82/2003/F3, dated 19.09.2003 and
G.O.Ms.No.98/2004/F3, dated 12.01.2004 and other financial powers issued by the Finance Department, Pondicherry.

7.3.6: POWERS ON THE JUDICIAL SIDE (CIVIL SIDE WORK)

The District Munsif, Additional District Munsifs, the Sub Judges, Additional Sub Judges, Additional District Judges, Principal District Judge shall exercise the powers vested in them under the Code of Civil Procedure and various special enactments, while discharging their judicial work.

7.3.6.1: POWERS ON THE JUDICIAL SIDE (CRIMINAL SIDE WORK)

The Judicial Magistrates, Chief Judicial Magistrate, Assistant Sessions Judges, Additional Sessions Judges and Principal Sessions Judge shall exercise the powers vested in them under the Code of Criminal Procedure and various special enactments, while discharging their judicial work. As per Section 28(2) of Cr.P.C. a Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

As per Section 28(3) of Cr.P.C. an Assistant Sessions Judge may pass any sentence authorized by law except a sentence of death or of imprisonment for a term exceeding ten years.

As per Section 29(1) of Cr.P.C. the Court of a Chief Judicial Magistrate may pass any sentence authorized by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.
As per Section 29(2) of Cr.P.C. the Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years or of fine not exceeding five thousand rupees, or of both.

Any convicted person sentenced to undergo for a term of imprisonment of not more than seven years and fine can file an appeal to the Court of Sessions under Section 374(3) of Cr.P.C. The revisionary powers of the Court of Sessions are laid down under Section 397 read with 399 of Cr.P.C.

**7.3.7: JURISDICTION OF THE COURTS IN PONDICHERRY REGION**

The Judicial Magistrates of Pondicherry shall try all the cases that is to say cases filed by the police officers and private complaints filed by private parties for offences under various Acts as detailed hereunder.

The territorial jurisdictions of the Chief Judicial Magistrate, Pondicherry is limited to the Grand Bazaar Circle, Othiansalai Police Station (Orleanpet Circle), All Women Police Station, PCR Cell Police Station, Vigilance & Anti Corruption Unit and the CID Police Station.

The territorial jurisdiction of Judicial Magistrate I, Pondicherry is limited to Reddiarpalayam Circle, Villianur Police Circle, Ariankuppam Circle, Bahour Circle, Nettapakkam Circle, Thirukkanur Circle, Food Cell, Traffic (Villianur) and all complaints by Public Servants.

The territorial jurisdiction of Judicial Magistrate I, Pondicherry is limited to Lawspet Circle, D’Nagar Circle, Grand Bazar Circle (Muthialpet), Orleanpet Circle, Excise Squad, Pondicherry and the Traffic Police Circle.
The pecuniary jurisdiction of the District Munsif Courts at Pondicherry extend to all original suits and proceedings of civil nature, of which the amount or value of the subject matter does not exceed Rs.15,000 (fifteen thousand rupees).

The pecuniary jurisdiction of the Subordinate Courts Pondicherry extend to all original suits and proceedings of civil nature, of which the amount or value of the subject matter exceeding Rs.15,000 (fifteen thousand rupees).

The pecuniary appellate jurisdiction of District Courts is upto Rs.30,000 (thirty thousand rupees). All appeals from the Judgment and Decree of the District Munsif Courts, Pondicherry will be entertained, heard and disposed of by the District Courts. All the appeals from the Judgment and Decree of the Sub Courts, Pondicherry, Mahe and Yanam upto the value of Rs.30,000 (thirty thousand rupees) will be entertained, heard and dispose of by the District Courts.

The Family Courts Act 1984 was enacted with a view to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith. The Family Courts is established with the objective of ensuring the welfare of the family through a multi-disciplinary approach of resolving family problems within the framework of the law.

7.3.8: THE JURISDICTION OF COURTS AT KARAikal

The pecuniary jurisdiction of the District Munsif Court at Karaikal shall extend to all original suits and proceedings of civil nature, of which the amount or value of the subject matter does not exceed Rs.30,000/—.
There is no Sub Court at Karaikal, but only an Additional District Court at Karaikal.

The pecuniary jurisdiction of the Additional District Court shall extend to all original suits and proceedings of civil nature, of which the amount or value of the subject matter exceeding Rs.30,000 (thirty thousand rupees).

All the appeals from the Judgment and Decree of the District Munsif Courts, Karaikal will be entertained, heard and disposed of by the Additional District Court, Karaikal.

7.3.9: THE JURISDICTION OF COURTS AT MAHE REGION

The pecuniary jurisdiction of the Subordinate Court, Mahe is unlimited and shall extend to all original suits and proceedings of civil nature. There is no Munsif Court at Mahe, but only Sub Court.

The pecuniary jurisdiction of the Subordinate Court, Yanam is unlimited and shall extend to all original suits and proceedings of civil nature. There is no Munsif Court at Yanam, but only Sub Court.

7.4: AMENDMENT OF PONDICHERY CIVIL COURTS ACT

The Pondicherry Civil Courts Act has been amended by the Pondicherry Civil Courts (Amendment) Act, 2005 (Act No.5 of 2005) published in Extra-ordinary Gazette No.47, dated 03.08.2005. The said Amendment Act came into force from 01.11.2005, with due notification.

The District Munsif Court, Pondicherry on original side has the pecuniary jurisdiction up to Rs.1,00,000. The Subordinate Court, Pondicherry has the pecuniary jurisdiction above Rs.1,00,000 up to Rs.
The District Courts, Pondicherry has the pecuniary jurisdiction above Rs.5,00,000.

The District Munsif Court, Karaikal on appellate side has the pecuniary jurisdiction up to Rs.1,00,000. The Subordinate Court, Mahe and Yanam has the pecuniary jurisdiction above Rs.1,00,000 up to Rs. 5,00,000. The District Courts, Pondicherry has the pecuniary jurisdiction above Rs.5,00,000.

The pecuniary jurisdiction in small causes cases of the District Munsif Courts is up to Rs.2,000/-. The pecuniary jurisdiction of the Subordinate Court is upto Rs.5,000/-. The pecuniary jurisdiction of the Additional District Court, Karaikal is upto Rs.5,000/-.

7.5: CAMP COURTS AT MAHE

The Government has issued a G.O.Ms.No.38/91-LA, dated 24.07.1991 by which, Camp Court are conducted at Mahe region by the Presiding Officer of the Court of the II Additional District Judge, Pondicherry, the first three working days of the last seven days of every alternative month for disposal of both civil and criminal cases.

7.5.1: CAMP COURTS AT YANAM

The Government has issued a G.O.Ms.No.9/99-LD, dated 17.05.1999 by which, Camp Courts are conducted at Yanam region by the Presiding Officer of the Court of the II Additional District Judge, Pondicherry, for disposal of both civil and criminal cases, as and when necessity arises.
7.5.2: VACATION FOR THE CIVIL COURTS

The Civil Courts in the Union Territory of Pondicherry will remain closed during the period of summer vacation in the month of May in respect of the Munsif Courts and till first week of June in respect of the District Courts as notified by the Hon'ble High Court, Madras.

During the period of vacation, urgent matters of filing on the civil side will be entertained, heard and disposed of by the Vacation Judge appointed by the Hon'ble High Court, Madras.

Vacation Civil Judges will be appointed separately for all the four regions by the Hon'ble High Court, Madras. Urgent matters of filing on the criminal side like bail, relaxation of condition of bail, suspension of sentence will be entertained, heard and disposed of by the Vacation Judge appointed by the Hon'ble High Court, Madras to look after urgent work on the criminal side.

7.5.3: CONSTITUTION OF LABOUR COURT, PONDICHERY

The Government of Pondicherry has established three Labour Courts for the Union Territory of Pondicherry.

First, the II Additional District Judge, Pondicherry is the Presiding Officer of the Labour Court constituted for Pondicherry and Yanam Regions. Second, the Additional District Judge, Karaikal is the Presiding Officer of the Labour Court constituted for Karaikal Region. Third, the Sub Judge, Mahe is the Presiding Officer of the Labour Court constituted for Mahe Region.
7.5.4: INDUSTRIAL TRIBUNAL

The Government of Pondicherry has constituted an Industrial Tribunal for the Union Territory of Pondicherry that is given the power to deal with the Industrial Disputes arising at the Pondicherry. The Principal District Judge, Pondicherry is the Presiding Officer of the Industrial Tribunal.

7.5.5: SPECIAL COURT UNDER THE PREVENTION OF CORRUPTION ACT, 1988

The Government of Pondicherry has constituted two Special Courts constituted under the Prevention of Corruption Act, 1988, one at Pondicherry and another at Karaikal. The Principal Sessions Judge is the Special Judge under the Prevention of Corruption Act for Pondicherry, Mahe and Yanam regions. The Additional Sessions Judge, Karaikal is the Special Judge under the said Act for Karaikal region.

7.5.6: SPECIAL COURT UNDER NDPS ACT, 1985

The Government of Pondicherry has constituted two Special Courts under the Narcotic Drugs and Psychotropic Substances Act, 1985, one at Pondicherry and another at Karaikal. The III Additional District and Sessions Judge, Pondicherry is the Special Judge under the Narcotic Drugs and Psychotropic Substances Act for Pondicherry, Mahe and Yanam regions. The Additional Sessions Judge, Karaikal is the Special Judge under the said Act for Karaikal region.
7.5.7: CONSTITUTION OF SPECIAL COURT UNDER THE SCHEDULED CASTES AND SCHEDULE TRIBES (PREVENTION OF ATROCITIES ACT), 1989

The Government of Pondicherry has constituted a Special Court under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 for the Union Territory of Pondicherry. The III Additional District Judge is the Special Judge appointed under the said Act.

7.5.8: MOTOR ACCIDENT CLAIMS TRIBUNAL

The Government has constituted the following Nine Motor Accident Claims Tribunal for the Union Territory of Pondicherry.

- Court of the Principal District Judge, Pondicherry.
- Court of the II Additional District Judge, Pondicherry.
- Court of the III Additional District Judge, Pondicherry.
- Court of the Principal Subordinate Judge, Pondicherry.
- Court of the Additional Subordinate Judge, Pondicherry.
- Court of the Special Officer-cum-II Additional Sub Judge, Pondicherry.
- Court of the Additional District Judge, Karaikal.
- Court of the Sub Judge, Mahe
- Court of the Sub Judge, Yanam.
7.5.9: COURT UNDER THE E.S.I. ACT, 1965

The Government of Pondicherry has constituted two Court under the Employees State Insurance Act, 1948 for the Union Territory of Pondicherry. The Presiding Officer, Labour Court, Pondicherry is the Presiding Officer of the ESI Court for Pondicherry, Mahe and Yanam regions. The Presiding Officer, Labour Court, Karaikal is the Presiding Officer of the ESI Court for Karaikal region.

7.5.10: WAKF TRIBUNAL

The Government of Pondicherry has constituted two Tribunals under the Wakf Act, 1995 (Central Act 43 of 1995) read with S.O.No.572 (E) for the Union Territory of Pondicherry. The III Additional District Judge is the Presiding Officer of the WAKF Court under the WAKF Act and The Additional District & Sessions Judge, Karaikal is the Presiding Officer of the WAKF Court under the WAKF Act.

7.5.11: STATE TRANSPORT APPELLATE TRIBUNAL

The Government of Pondicherry has constituted State Transport Appellate Tribunal under the Motor Vehicles Act, 1988, (Central Act 59 of 1988) appointing the Chief Judge, Pondicherry as the Presiding Officer of the Tribunal for the Union Territory of Pondicherry.

7.5.12: SALES TAX APPELLATE TRIBUNAL

The Government of Pondicherry has constituted Sales Tax Appellate Tribunal under the Pondicherry General Sales Tax Act, 1967 appointing the Principal District Judge, Pondicherry as the Presiding Officer of the Tribunal for the Union Territory of Pondicherry.
7.5.13: COOPERATIVE TRIBUNAL

The Government of Pondicherry has constituted two Tribunals under the Pondicherry Cooperative Societies Act, 1972 for the Union Territory of Pondicherry. The Chief Judge, Pondicherry is the Member of the Tribunal for Pondicherry and The Additional District & Sessions Judge, Karaikal is the Member of the Tribunal for Karaikal.

7.6: DUTIES OF THE COURTS MINISTERIAL STAFFS

Head Sarishtadar is a Drawing and Disbursing Officer. He has the duty of the Supervising work in preparation of materials relating to DPC meetings for recruitment, promotion and ACP, in preparation of Minutes of the meetings. He does the work of attending budget meetings and general correspondence and such other duties assigned by the Presiding Officer with respect to the Court.

Sarishtadar and Assistant Sarishtadar are the Head Ministerial Officer. He does the Supervising work, the Checking and numbering main cases, the General correspondence. He does the duty of Inspection of Subordinate Courts and finally prepares the inspection reports. The Sarishtadar is functioning as Central Nazir. He is the in charge of Nazir Section and the duty of Supervision of the work and allocation of service of summons and execution of warrant works to Amins and Process Servers. He conducts public auction at the orders of the Court. The Assistant Sarishtadar functions as Superintendent of Copyist Establishment. He has the duty of attesting the certified copies of judgment, orders, and decrees issued to the parties to the dispute on Copy Application. The Sarishtadar is functioning as Central Record Section and does the supervision of the work. He has the duty of verification of
records to be submitted to Appellate Courts and to prepare list of old records for destruction.

Stenographer at senior grade and junior grade does the work of taking down dictation of judgments, orders and transcription work and other works entrusted by the Presiding Officer of the Court.

Bench clerk both the senior clerk and junior clerk does the work of maintenance of Diary, Hearing Book and other registers prescribed under the Civil and Criminal Rules of Practice and Preparation of statistical statement showing the Institution, disposal and pendency of cases, on the civil and criminal side and case properties and fine statement on the criminal side. Statement clerk does the preparation of various statistical statements relating to Institution, disposal and pendency of cases in the respective Courts Quarterly, Periodical and Half Yearly statements.

Other clerical staffs such as the senior clerk, junior clerk and copyist dose the work of typing of fair judgments, preparation of decrees, maintain various registers relating to institution, disposal and pendency of cases prescribed under the Civil and Criminal Rules of Practice. They perform the duty of indexing of case records, Submission of records to the Appellate Courts, copy application compliance, receipt of FIRs and receipt of case properties.

The Court Amin or the Process Server does the duty of execution of warrant service of summons and notice. Attender and the peon does the calling work and other duties assigned by the Presiding Officers of the Court. The driver does the work of driving of staff cars and maintenance of logbooks. The Administration, establishment, accounts, stores senior clerk and junior clerk has the duty of maintenance of service books of Staff Members and the Judicial Officers, Budget Preparation. They do the
work of preparing the seniority list of staff, confirmation of staff, maintenance of personal files of staff and judicial officers, maintenance of confidential reports and performance reports of staff, general correspondence. The maintenance of roster, contingent bills, pay bills and other advance bills, maintenance of cash book and other related registers and maintenance of stock register, furniture register etc., are done by them. Assistant library and information officer has the duty of maintenance of Library Books.

7.7 : FAMILY COURT, PONDICHERRY

This Court aims at securing the legal rights of the individuals on the one hand while performing the role of guide, helper and Counselor on the other. The basic concept of Family Court emerges from the conviction that the family being a social institution, disputes connected with family breakdown, divorce, maintenance, custody of children and so forth needs to be viewed from the social rather than legal perspective.

The Family Court is a ‘Civil Court’ exclusively dealing with the matters of declaring a marriage as null and void, restitution of conjugal rights, judicial separation, dissolution of marriage, declaration as to matrimonial status of any person, declaration as to the ownership of property of the party concerned, interim order or injunction arising out of marital relationship, declaration of legitimacy of any person or guardianship of a person or the custody or access to any minor, suits or proceedings for maintenance.

After the study of the evolutionary history of the dispute redressal Institutions of the Union Territory of Pondicherry the researcher now proceeds with the laying down of the report with respect to the Statistical interpretation, Observations, Interviews and the responses obtained
from different populace chosen by the sample survey method from the group of Judges, Advocates, Judicial Staffs, and Litigant Public from the above studied Institutions.

7.8: THE FIELD STUDY

The field study report that follows hereunder is solely bases on collected facts and opinions of the Judges, Lawyers and the Litigant public. The propositions that the researcher could arrive at from the observations of the functioning of these institutions and from the statistical data that could possibly be gathered by the research as a proof of the same from the respective dispute redressing institutions of Pondicherry. The researcher has made a humble attempt to consolidate the empirical study in this report.

7.8.1: THE INSTITUTIONS COVERED UNDER THE FIELD STUDY

The researcher undertook the said field study in the District Courts, Sub-Courts, Munsif Courts, and Magistrate Courts of Pondicherry during the months of February 2008 until May 2008. With respect to the Family Court, Pondicherry the said field study was undertaken in the month of February 2008 until May 2008. The researcher undertook the said field study in the Labour Office Conciliation, Pondicherry, in the month of December 2008 until January 2009 and at the Union Territory of Pondicherry Legal Services Authority in the month of March 2008 till May 2008. The field study was undertaken with the due permission and the guidance of the head of the respective institutions and the research guide. At the end of the field study, the respective institutions certified
the same and were kind enough to permit the researcher to utilize those statistical data and facts in the research study\textsuperscript{666}.

\textbf{7.8.2: RESEARCH METHODOLOGIES APPLIED IN THE FIELD STUDY}

The researcher conducted said study with the help of different research methodologies depending upon the attitude, preference, knowledge and awareness of the population with reference to the research problem. The purpose of changing the different methodology in the process of the empirical study was to identify the gap between the law in letters and the law in practice, and there by identifying the flaws in the process of redressing the disputes in an economical and quick way.

The study aimed at the analysis of the problem of judicial delays and arrears in the Courts of laws, its awareness of among the populace and identifying the extent to which the alternate dispute redressal methods can solve the problem of judicial arrears and delay in the path rendering Justice to the disputants.

The field study was undertaken in the said institutions of Pondicherry primarily with the help of observation and interview methods, which were both structured and unstructured in nature depending upon the different institutions and the individual covered during the whole study. The Questionnaires with a set of questions framed in accordance with the objectives of the study was used during the interviews and flexibly adjusted according to the needs\textsuperscript{667}. The researcher in order to secure maximum possible information with reference to the research problem adopted the needed flexibilities in choosing the

\textsuperscript{666} The certificates issued by the respective departments are enclosed herewith as ANNEXURE ‘F’ series.

\textsuperscript{667} The Questionnaires is annexed herewith as ANNEXURE ‘D’. 

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different methodologies and tools during the field study. Thus, it proved to be flexible enough and helpful to the process of observation, the statistical analysis of the gathered data and in interviewing the Judges, the Advocates, Staffs and Disputant public of the respective institutions. The researcher could thus gather some wider variety of responses, which were specifically used in with reference to the study of research problem.

The researcher has also made a humble attempt to consolidate and analyze the collected facts and the statistical data on the Institution, Disposal and Pending Cases before the respective authorities. In this process, the research has presented the collected data in the tabulated and graphical forms. The choice of these institutions was done randomly keeping in view of stipulated time, the research problem and the legislations that were dealt with in the process of study previous chapters. The research undertook the said analytical and statistical research, in order to cover, to the maximum extend possible the study of different types of dispute redressal machineries functioning in the Union Territory of Pondicherry. The researcher’s analysis of the statistical data, facts, records, views and perceptions in response to the question posed to the authorities, advocates, judges, disputant public and the staffs of the respective institutions during the course of the field study is presented hereunder.

7.8.3: THE FIELD STUDY REPORT

The field study was undertaken by the researcher in the District Courts, Sub-Courts, Munsif Courts, the Magistrate Courts and the Family Court, of Pondicherry during the month of February 2008 until May 2008. The methodology adopted for the study was the Interviews and Observation methods with the help of Questionnaire addressed to the
Honorable Judges, Advocates and the litigant public who were chosen randomly by the Sample Survey method.

The researcher was also able to collect the statistical data on institution, disposal and pendency of cases from these Courts. These data helped the researcher in the study of the problem of judicial arrears and delays present before the different dispute redressing institutions of Pondicherry. These data were used to analyze and study the, growing rate of institution of new cases, disposal and the pendency before each institution in a particular period starting with 2004 until the end of 2007. The data from the authorized registers of the respective Courts is duly processed and the researcher has arrived at the following conclusions, which is highlighted in a tabulated format hereunder.

Table 1:

Institution, Disposal and Pendency of Criminal Cases in the Sessions Courts in the Union Territory of Pondicherry for the Year 2004 to 2007

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INSTITUTION</th>
<th>DISPOSAL</th>
<th>PENDENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>224</td>
<td>131</td>
<td>373</td>
</tr>
<tr>
<td>2005</td>
<td>251</td>
<td>157</td>
<td>467</td>
</tr>
<tr>
<td>2006</td>
<td>224</td>
<td>243</td>
<td>448</td>
</tr>
<tr>
<td>2007</td>
<td>134</td>
<td>237</td>
<td>345</td>
</tr>
</tbody>
</table>
Table 2:
Institution, Disposal and Pendency of Criminal Cases in the Magisterial Courts in the Union Territory of Pondicherry for the Year 2004 to 2007

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INSTITUTION</th>
<th>DISPOSAL</th>
<th>PENDENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>37562</td>
<td>36480</td>
<td>8206</td>
</tr>
<tr>
<td>2005</td>
<td>32502</td>
<td>32577</td>
<td>8131</td>
</tr>
<tr>
<td>2006</td>
<td>20720</td>
<td>20354</td>
<td>8497</td>
</tr>
<tr>
<td>2007</td>
<td>24423</td>
<td>22746</td>
<td>10174</td>
</tr>
</tbody>
</table>

Table 3:
Institution, Disposal and Pendency of Civil Cases in the Sub-Courts in the Union Territory of Pondicherry for the Year 2004 to 2007

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INSTITUTION</th>
<th>DISPOSAL</th>
<th>PENDENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>2235</td>
<td>1578</td>
<td>3555</td>
</tr>
<tr>
<td>2005</td>
<td>2425</td>
<td>2338</td>
<td>3642</td>
</tr>
<tr>
<td>2006</td>
<td>1613</td>
<td>1567</td>
<td>3685</td>
</tr>
<tr>
<td>2007</td>
<td>1328</td>
<td>1464</td>
<td>3552</td>
</tr>
</tbody>
</table>
Table 4:

Institution, Disposal and Pendency of Civil Cases in the
District Munsif Courts in the Union Territory of Pondicherry
for the Year 2004 to 2007

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INSTITUTION</th>
<th>DISPOSAL</th>
<th>PENDENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>2126</td>
<td>2380</td>
<td>1412</td>
</tr>
<tr>
<td>2005</td>
<td>2615</td>
<td>2066</td>
<td>1961</td>
</tr>
<tr>
<td>2006</td>
<td>3130</td>
<td>2667</td>
<td>2424</td>
</tr>
<tr>
<td>2007</td>
<td>3214</td>
<td>3061</td>
<td>2577</td>
</tr>
</tbody>
</table>

Table 5:

Institution, Disposal and Pendency of Civil Cases in the
District Courts (Appellate Jurisdiction) in the
Union Territory of Pondicherry for the Year 2004 to 2007

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INSTITUTION</th>
<th>DISPOSAL</th>
<th>PENDENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>251</td>
<td>126</td>
<td>349</td>
</tr>
<tr>
<td>2005</td>
<td>142</td>
<td>241</td>
<td>250</td>
</tr>
<tr>
<td>2006</td>
<td>401</td>
<td>128</td>
<td>523</td>
</tr>
<tr>
<td>2007</td>
<td>168</td>
<td>270</td>
<td>421</td>
</tr>
</tbody>
</table>
Table 6:

**Institution, Disposal and Pendency of Civil Cases in the District Courts (Original Jurisdiction) in the Union Territory of Pondicherry for the Year 2004 to 2007**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INSTITUTION</th>
<th>DISPOSAL</th>
<th>PENDENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>1683</td>
<td>985</td>
<td>2659</td>
</tr>
<tr>
<td>2005</td>
<td>1459</td>
<td>904</td>
<td>3214</td>
</tr>
<tr>
<td>2006</td>
<td>1424</td>
<td>1225</td>
<td>3413</td>
</tr>
<tr>
<td>2007</td>
<td>1930</td>
<td>1525</td>
<td>3818</td>
</tr>
</tbody>
</table>

The report is the essence of the due interpretation and analysis of all the views, facts, data and proposition that were gathered during the whole process of the study. The analysis of the statistical data and the responses obtained on the questionnaires in the field study reveals that there is a continuous increase in filing of cases before these Courts. The reason for the increase in the institution of new cases before the Courts of law is said to be the attitudinal change of the population, which is mainly due to the increased literacy rate among the public and consequent increase of awareness of the duties, rights and liabilities among the people. The responses from the litigant public further highlights that the disputant public no longer wants to be exploited and denied of their legal rights. In addition to that, the increasing legislations on procedural and substantive laws and the rules made there under are not only creating new rights and obligations but are also ambiguous in nature that is adding to
the cases list with erroneous cases being filed before the Courts. The economic and industrial developments, increased trade, commerce, and the subsequent changes in the lifestyle of people at all levels leading to increased rate of interactions between the public are said to be some of the prominent factors contributing towards the number of new cases that is being filed before the Courts. It is also seen that the disputed parties absolutely repose their faith in judicial system for redressing their grievances and thereby tend to approach the Courts for seeking justice. The responses from the litigant public highlights the fact that they are not having the necessary awareness about the availability and use of different alternative dispute redressal methods, which can also give them easy, quick, and economical solutions and thereby finality to their disputes with win-win solutions.

The reasons given by the respondents during the course of the study for such higher confidence of the disputant public in the Courts are that, there is no discrimination what so ever on any grounds shown among the aggrieved persons for seeking justice from Court of law. The parties to the disputes get the feel that they are given a fair hearing before the judgment is made. The Courts give reasons for the final decree, and the judgment, which re-establishes the fact that, ‘the justice is not only done but seem to be done’ at the very face of it. It is also evident that, due to the increase in number of filings the data showing the number of pending cases before the Court of law is also bulky, which is exaggerating the problem of judicial delays and arrears.

The empirical study conducted by the researcher shows that the Lawyers and Judges acknowledge the adverse impact of the backlog and delay before the Courts of law on the society. Their responses also show that there is a sincere need of judicial reform and need for expediting the
dispute redressing process. The experience of a person undergoing litigation in the Courts is not very much pleasant and the most common complaints that is made pertains to high fees and the excessively long durations of time that is generally taken by the Courts to dispose of the cases. The response from the litigant public also explains that they are not aware of the processes called ADR or Arbitration, Conciliation and Mediation, which they utilize efficiently in the process of resolution of their disputes.

The responses received by the researcher during the interview of the Judges of the above-enlisted Courts of Pondicherry reveal that, with the increased workload on them, the judges are finding it difficult to update themselves with the changing trends. In litigation as those related to specialized area of intellectual property rights, cyber crimes, environmental protection, money laundering, competition, telecommunication, taxation, international arbitration, and such other areas, the adjudication of dispute does require the updated training, added expertise among the presiding offices of the Courts. In normal course of their duty, the Judges are dealing with the problem of the lack of time and the over burdened Courts with huge backlogs before them, resulting in their inability to update themselves in spite of a desperate urge for it among the intellectual judicial fraternity.

It is also admitted that the unfilled vacancies in the Courts of law at different levels is also proving to be a contributing factor for the increased number of undecided cases in the Courts of law. The other reasons that is said to be a contributing to the problem of Court

668 The Judges who were interviewed by the researcher during the field study are Hon’ble Mr. D. Krishnaraja, Chief Judge, Pondicherry, Hon’ble Mr K.Ganesan, Judge Family Court, and Pondicherry. Hon’ble Mr D.Ramabathiran, District Judge Cum- Member Secretary ,Union Territory of Pondicherry Legal Services Authority, Mrs.P. Janaki, Labour Officer Conciliation, Pondicherry.
congestion and judicial delays are the unnecessary adjournments extending the life of litigation, time taken and indifferent handling of the important stage of the suit in framing issues, the difficulty in service of summons. The time consumed in summoning the witnesses, and recording the examination-in-chief, the time taken for cross-examination and re-examination. The delay at arguments stage with long adjournments even in cases where there is no complex question of law involved or voluminous evidences has to be referred is also said to be the contributing factor for the problem of judicial delays and arrears. The unreasonably long time taken by the Courts to pronounce judgments and awards, the time taken for making available the copies of judgment and awards after its pronouncement, the unending appeals through the provisions of first appeal on question of facts and law to District Court, second appeal on the question of law to High Court, right to appeal to Supreme Court under Art 136 of the constitution and Section 109 of CPC are also highlighted as major contributors for the problem of judicial delays and arrears. However, CPC (Amendment Act) 1999 has introduced new subsections with the aim of reforming the process of trial before the Courts of law but the amendments has been criticised by litigant public as well as advocates for not making any positive changes in expediting the execution proceedings.

7.8.4: FAMILY COURT PONDICHERRY

The researcher has made a humble attempt to analyze the situation with respect to the problem of backlogs and arrears before the Family Courts Pondicherry, which was established to protect and preserve the institution of marriage and to promote the welfare of children. The most unique aspect regarding the proceedings before the Family Court are that they are first referred to conciliation and only when the conciliation
proceedings fail to resolve the issue successfully, the matter taken up for trial by the Court. The Conciliators are professionals who are appointed by the Court. The emphasis of the Family Courts is on conciliation and achievement of socially desirable results rather than adherence to rigid rules of procedure and evidence adopted in ordinary civil proceedings. Efforts are also being made in the Family Court, Pondicherry for the settlements of family disputes. The researcher has made an exclusive statistical analysis of the data relating to the Institution, Disposal and Pendency of Cases in the Family Court of the Union Territory of Pondicherry for the Year 2000 to 2007. Further, the statistical data for the year 2007 has been further elaborately categorized and studied according to the, mode by which the resolution of dispute has taken place before the Family Court at Pondicherry. The study includes the exclusive categorization of the pending of dispute as per the duration of the pendency of the cases.
Table 7:

Institution, Disposal and Pendency of Cases in the Family Court of the Union Territory of Pondicherry for the Year 2000 to 2007

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INSTITUTION</th>
<th>DISPOSAL</th>
<th>PENDENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>523</td>
<td>512</td>
<td>432</td>
</tr>
<tr>
<td>2001</td>
<td>593</td>
<td>387</td>
<td>648</td>
</tr>
<tr>
<td>2002</td>
<td>780</td>
<td>693</td>
<td>785</td>
</tr>
<tr>
<td>2003</td>
<td>650</td>
<td>554</td>
<td>881</td>
</tr>
<tr>
<td>2004</td>
<td>518</td>
<td>691</td>
<td>708</td>
</tr>
<tr>
<td>2005</td>
<td>503</td>
<td>655</td>
<td>556</td>
</tr>
<tr>
<td>2006</td>
<td>659</td>
<td>655</td>
<td>520</td>
</tr>
<tr>
<td>2007</td>
<td>549</td>
<td>539</td>
<td>430</td>
</tr>
</tbody>
</table>
Table 7.1.A: Category wise Disposal and Pendency of Cases in the Family Court of the Union Territory of Pondicherry for the Year 2007

Table 7.1.A: For the Period 1-1-2007 to 31-3-2007

<table>
<thead>
<tr>
<th>Category Of Cases</th>
<th>DISPOSAL BY</th>
<th>PENDENCY DURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Adjudication</td>
<td>Reconciliation</td>
</tr>
<tr>
<td>OS</td>
<td>19</td>
<td>4</td>
</tr>
<tr>
<td>MOP</td>
<td>62</td>
<td>28</td>
</tr>
<tr>
<td>OP</td>
<td>24</td>
<td>-</td>
</tr>
<tr>
<td>EP</td>
<td>6</td>
<td>-</td>
</tr>
<tr>
<td>MC</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>CRMP</td>
<td>99</td>
<td>5</td>
</tr>
<tr>
<td>TOTAL</td>
<td>221</td>
<td>39</td>
</tr>
</tbody>
</table>
### Table 7.1.B:

For the Period from 1-4-2007 to 30-6-2007

<table>
<thead>
<tr>
<th>Category Of Cases</th>
<th>DISPOSAL BY</th>
<th>PENDENCY DURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Adjudication</td>
<td>Reconciliation</td>
</tr>
<tr>
<td></td>
<td>&gt;6 month</td>
<td>6 to 12 month</td>
</tr>
<tr>
<td></td>
<td>1 to 2 Years</td>
<td>2 to 3 Years</td>
</tr>
<tr>
<td></td>
<td>Above 3 Years</td>
<td></td>
</tr>
<tr>
<td>OS</td>
<td>13</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>MOP</td>
<td>51</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>83</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>56</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>OP</td>
<td>19</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>6</td>
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<td>4</td>
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<td>4</td>
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<td>EP</td>
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<td>4</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>MC</td>
<td>14</td>
<td>3</td>
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<td></td>
<td>38</td>
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<td>7</td>
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<tr>
<td>CRMP</td>
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<td>16</td>
<td>5</td>
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<tr>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>260</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>193</td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>98</td>
<td>38</td>
</tr>
<tr>
<td></td>
<td>83</td>
<td></td>
</tr>
</tbody>
</table>
Table 7.1.C:

For the Period from 1-7-2007 to 30-9-2007

<table>
<thead>
<tr>
<th>Category of Cases</th>
<th>DISPOSAL BY</th>
<th>PENDENCY DURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Adjudication</td>
<td>Reconciliation</td>
</tr>
<tr>
<td>OS</td>
<td>22</td>
<td>-</td>
</tr>
<tr>
<td>MOP</td>
<td>52</td>
<td>31</td>
</tr>
<tr>
<td>OP</td>
<td>14</td>
<td>-</td>
</tr>
<tr>
<td>EP</td>
<td>8</td>
<td>-</td>
</tr>
<tr>
<td>MC</td>
<td>18</td>
<td>4</td>
</tr>
<tr>
<td>CRMP</td>
<td>145</td>
<td>20</td>
</tr>
<tr>
<td>TOTAL</td>
<td>259</td>
<td>55</td>
</tr>
</tbody>
</table>
Table 7.1.D:

For the Period from 1-10-2007 to 31-12-2007

| Category Of Cases | DISPOSAL BY | | | | | |
| | | Adjudication | Reconciliation | > 6 month | 6 to 12 month | 1 to 2 Years | 2 to 3 Years | Above 3 Years |
| OS | 4 | - | 3 | 6 | 12 | 6 | 17 |
| MOP | 66 | 3 | 104 | 37 | 48 | 32 | 34 |
| OP | 17 | - | 6 | 2 | 2 | 3 | 5 |
| EP | 8 | - | 3 | 6 | 3 | 1 | 8 |
| MC | 15 | - | 26 | 21 | 17 | - | 8 |
| CRMP | 107 | 2 | 46 | 30 | 17 | 5 | 4 |
| TOTAL | 217 | 5 | 198 | 102 | 99 | 57 | 76 |
In the process of the field study, the researcher had the opportunity to interact with the Hon’ble Mr. K. Ganesan, Judge Family Court, Pondicherry, Advocates practicing in the Family Court and some of the litigant public. The interactions were mainly by the methodology of observation and interviews with the help of the Questionnaires, which were prepared in advance by the researcher as per objectives and aims in the study of the research problem. In analyzing the response to the questions addressed to the Hon’ble Judge of the Family Court Pondicherry and its Advocates it is found that there is a common emphasis from their point of view on the settling the disputes by mediation and conciliation before the Family Court. This ensures that the matters are expected to be solved by an agreement between both the parties and reduces the chances of any further conflict. The aim is to give priority to mutual agreement over the usual process of adjudication. The Family Court at Pondicherry through its Judge and Advocate Counselors are working jointly to form a congenial atmosphere where family disputes are resolved amicably. The cases are kept away from the trappings of a formal legal system as the shackles of a formal legal system and the regular process of adjudication can cause unnecessary prolonging of the matter and the dispute can worsen over time. This can be a very traumatic experience for the families and lead to personal and financial losses that can have a devastating effect on human relations as well. In some cases, it is seen that the husband in a divorce cases resorts to reconciliation mainly because he wants to escape the responsibility of giving maintenance to his wife. These propositions, stresses the importance of having guidance counselors and psychological experts to deal with such matters which is absent in the Pondicherry Family Court. Since the Family Court has restrictive jurisdiction and does not have the power to decide issues of
contempt, people do not seem to take the Court as seriously as they do at a magistrate or a city Civil Court.

The litigant public who took part in the study and responded to the researchers questionnaire highlighted certain issues which happen to be a matter of concern when it comes to the working of the Family Court. When cases stretch for a period of time, where by there is change of Judge, or the counselor, the woman or the aggrieved person has to face the difficulty to adjust with new counselors and their story has to be retold several times. A major drawback of the Family Court happens to be both in the eyes of Advocates and the Litigants are that, it doesn’t explicitly empower Courts to grant injunctions to prevent domestic violence. It is laid down in the Family Courts Act that the majority of judges should be women and Family Courts need to align themselves with women’s organizations and NGOs dealing with the welfare of families, women and children. However, these provisions have not been duly complied with in the Family Court of Pondicherry. Another matter of confusion that came to light was that the Act, by virtue of Section 13 provides that the party before a Family Court shall not be entitled as of right to be represented by a legal practitioner. However, the Court may, in the interest of justice, provide assistance of a legal expert as amicus curiae. This is an example of the objective behind the Family Court being defeated due to the procedural lapses. The fact that the proceedings are conciliatory does not relieve them of the complicated legal issues which may be involved in the family dispute. The question is whether a lawyer's participation will be useful or detrimental to the performance of a Family Court. That is a crucial issue before the Family Court, which raises repeated friction between the Advocates practicing before the Family Court and its Judges. It is a debatable question for the study, which needs
a separate exclusive study as to whether an amendment could be proposed to allow participation of lawyers subject to a proviso giving power to the Court to terminate his Vakalatnama if he uses delaying tactics by unnecessary adjournments. If such control is given to the Court, the lawyers will not be able to get adjournments. Further, a lay person may be totally unaware of the legal jargon that invariably comes into play during the proceedings. The issues relating to the functioning of these Courts is to be seen in total, as quoted in the examples relating to the procedural as well as substantive aspects of the problems.

From the above study it can thus be said that, merely passing a Central Legislation and the establishment of the Courts is not in itself a complete step, for implementation in its spirit, it is to be ensured that some level of uniformity is maintained, at least in the initial stages of its coming into effect. Further, the need to amend certain laws can be examined by a deeper study of the Family Courts in that aspect. However, from the statistical analysis of the data it cannot be denied that the method of conciliation is primarily applied as a mode of bringing settlement in the Family Court cases, but its effectively is to be increased with the expertise of the counselors, psychologists and social help groups. Their participation is needed in order to ensure that these Courts do not face any hindrance in their working and reducing the existing judicial arrears and delays before the Family Court Pondicherry. These small steps have to be examined and duly implemented within time, for ensuring that the Family Courts are successful, to a greater degree, and to fulfill the noble purpose for which they were created.
7.8.5: LABOUR OFFICE CONCILIATION:

The Field study was undertaken by the researcher in the Labour Office Conciliation, Pondicherry, during the months of December 2008 and January 2009. Brief report of the said study is provided here under.

The conciliation machinery studied hereunder is the one functioning under the Industrial Disputes Act, 1947. It is different from the ‘conciliation’ provided for under the Arbitration and Conciliation Act, 1996. These two different concepts have already been discussed in the earlier chapters of this research paper by the researcher.

In the year 1963, the Parliament enacted the Government of Union Territories Act, which provides for Legislative Assemblies and Council of Ministers in the Union Territories. In exercise of the powers conferred by Article 239 of the Constitution of India and Section 46 of the Government of Union Territories Act 1963, the President of India has framed the Business of the Government of Puducherry (Allocation) Rules, 1963 etc. As per Rule 3 of the Business of Government of Puducherry (Allocation) Rules, 1963, the entire Business of the Government shall be transacted by twelve Departments namely the:

- Confidential and Cabinet Department
- Home Department
- Appointments Department
- General Administration Department
- Education Department
- Local Administration Department
• Labour Department

• Medical and Public Health Department

• Legislative and Judicial Department

• Planning and Development Department

• Finance Department

• Revenue Department.

7.8.5.1: LABOUR DEPARTMENT AND ITS BRANCHES AS PER BUSINESS (ALLOCATION) RULES

As per Rule 3 of the Business of Government of Puducherry (Allocation) Rules, 1963, the Labour Department and its branches are the

• Employment Exchange

• Industrial Disputes

• All matters relating to Labour and Labour Laws

• Re-settlement of Labour

• Employees State Insurance

• Recruitment to the posts and training, probation, posting, transfer and so forth, of officers and staff of the department other than those within the purview of the Appointment Department.

The Conciliation Machinery functions as a separate entity since 1975-76 after it was bifurcated from the enforcement machinery. The

www.pon.nic.in//labour.pondicherry.gov.in/LRD_Conciliation_machinery.
Labour Officer (Conciliation) functions as the Head of Office of the Office of the Labour Officer (Conciliation).

7.8.5.2: OBJECTIVES OF THE CONCILIATION MACHINERY

The prime objective of the Office of the Labour Officer (Conciliation) is to take prompt and effective action pertaining to investigation and settlement of Industrial Disputes amicably so that "Industrial Harmony" can be maintained among the industries in Union Territory of Puducherry. In detail, the objectives are to promote activities so as to maintain industrial peace among the various industries in the Puducherry region. To ensure the welfare of the work force through conciliation by settlement of disputes regarding wage revision and other welfare measures. To educate the management personnel and workers regarding their obligations to each other by conducting training programmes. To take prompt and effective action for settlement of grievances and implementation of settlements, awards, decisions and orders. To ensure that Unfair Labour practices are not adopted either by the Management or by the Union and to ensure social justice to both employers and employees and thereby promote industrial progress.

7.8.5.3: FUNCTIONS OF THE CONCILIATION MACHINERY

A function of the conciliation machinery includes the implementation of the following Central as well as State Acts. The Industrial Disputes Act, 1947, The Industrial Employment (Standing Orders) Act, 1946 and The Puducherry Catering Establishment Act, 1964\(^670\).

\(^670\) Labour. Pondicherry.Govt. .in is the official website of Labour department, Pondicherry.
Industrial Employment (Standing Orders) Act, 1946 aims to achieve a laudable objective for the protection of labour by providing uniform and stable conditions of service. The Act requires employers of certain industrial establishments to clearly define the conditions of employment i.e. Standing Orders and in the Service Rules and to make them known to the workmen employed by them. If any dispute arises in relation to certified Standing Orders, the Conciliation Officer will intervene and settle the dispute in accordance with the Industrial Disputes Act, 1947.

The Industrial Disputes Act, 1947 was enacted to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of Industrial disputes by negotiations instead of by trial of strength through strikes and lockouts. An "Industrial Dispute" has three ingredients namely there should be real and substantial dispute or difference. The dispute or difference must be between employers and or workmen. The dispute or difference must be connected with the employment or non-employment or terms of employment or with the conditions of labour of any person. The procedures for strikes or lockouts, lay-off, retrenchment, closure and activities regarded as unfair labour practices are also dealt under the Industrial Disputes Act, 1947.

7.8.5.4: SALIENT PROVISIONS OF THE INDUSTRIAL DISPUTES ACT, 1947

Appointment of conciliation officers The Industrial Disputes Act, 1947 is provided under Section 4. This Section confers power upon the Government to appoint Conciliation Officers by notification in the official gazette, for a specified area or for one or more specified industries for the purpose of mediating in and promoting settlement of
industrial disputes. The Labour Officer (Conciliation) and the Assistant Inspectors of Labour have been notified and appointed as Conciliation Officers under this Act. A conciliation officer may be appointed either permanently or for a limited period.

7.8.5.5: PROCEDURE AND POWERS OF CONCILIATION OFFICERS

Section 11 (2) of the Industrial Disputes Act, 1947 prescribing the powers of the Conciliation Officers states that, such officer may, for the purpose of inquiry into existing or apprehended industrial dispute, after giving reasonable notice enter the premises occupied by an industrial establishment to which the dispute relates.

Section 11 (2) of the Industrial Disputes Act, 1947 provides that, a Conciliation Officer or a member of a board or Court or the presiding officer of a Labour Court, Tribunal or National Tribunal may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

Section 11 (4) of the Industrial Disputes Act, 1947 provides that, a Conciliation Officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out duty imposed on him under this Act. For the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.
Section 11 (6) of the Industrial Disputes Act, 1947 provides that, all Conciliation Officers, members of a Board or Court and the presiding officers of a Labour Court, Tribunal or National Tribunal shall be deemed to be Public servants within the meaning of section 21 of the India Penal Code (45 of 1860).

7.8.5.6: DUTIES OF CONCILIATION OFFICERS

Section 12 of the Industrial Disputes Act, 1947 prescribes the duties of Conciliation Officers. If the employer and the workmen does not succeed and arrive at a settlement through negotiations, the Conciliation Officer may intervene as a mediator, endeavour to reconcile the differences of opinion and help the labour and management in achieving a successful settlement. Intervention by the Conciliation Officer is mandatory in case an industrial dispute has arisen in a public utility service and a notice of strike or lockout under section 22 of the Industrial Disputes Act, 1947 has been served.

The Conciliation Officer shall, for the purpose of bringing about a settlement of dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

The Conciliation Officer shall send a report of proceedings to the Government, as to whether the settlement has been achieved or not, within fourteen days of the commencement of the conciliation proceedings or within such extended time as may be allowed and in the prescribed manner. If a settlement is arrived at as a result of conciliation proceedings a memorandum of settlement is worked out and it becomes binding on all the parties concerned for a period agreed upon. If no
settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of investigation, send a full report “Failure Report” to the Government. The report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, and the reasons on account of which a settlement could not be reached.

Section 12 of the Industrial Disputes Act, 1947 provides that, If, on a consideration of the report referred to in sub-section (4), the appropriate government is satisfied that there is a case for reference to a Board, Labour Court, Tribunal or National Tribunal, it may make such reference. Where the appropriate government does not make such a reference it shall record and communicate to the parties concerned its reasons therefore. A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter Period as may be fixed by the appropriate government. Subject to the approval of the conciliation officer, the time for the submission of the report may be extended with such period as may be agreed upon in writing by all the parties to the dispute. It is important to note that, in Puducherry, the Government has fixed the time limit of sixty days from the commencement of the conciliation proceedings.

7.8.5.7: THE SETTLEMENT

A settlement arrived at, in the course of conciliation proceedings comes into operation on such date as is agreed upon by the parties to the dispute and in the cases where no such date is agreed upon, on the date on which the memorandum of settlement is signed by the parties to the dispute. The settlement shall be binding for the period agreed upon by the
parties. Where no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed.

The settlement shall remain binding for a further period until the expiry of two months from the date on which a notice in writing for termination of the settlement is given by any one party to the other party or parties.

7.8.5.8: PROTECTION OF WORKMEN DURING PENDENCY OF CONCILIATION PROCEEDINGS

During pendency of any conciliation proceedings before a Conciliation Officer in respect of any dispute, no employer can alter the conditions of service to the prejudice of the workmen concerned with the dispute or dismiss or punish any such workmen without obtaining written permission of the authority concerned.

Obligations on the part of employer are that he cannot make any change in the service condition of the workmen without giving a notice prescribed under Section 9A. The employer has to assist the Conciliation Officer in resolving any dispute. He should implement all agreements, settlements and Awards. Employer must maintain a muster roll of the workmen employed in the establishment, even at the time when workmen have been laid-off, and to ensure that the names of the workmen who present themselves for work at the appointed hours, are entered therein. He should not declare, support or finance an illegal lockout, in the establishment. Employer should not lay-off or retrench any workmen or close down any undertaking, without obtaining prior approval of the Government if so required. Employer should pay the lay-off, retrenchment and closure compensation, compensation to workmen for
illegal lock-out, as prescribed under the provisions of the Act and he should not indulge in any kind of unfair labour practices.

Obligations on the part of employees are also specified under the Industrial Disputes Act, 1947. The Employees have to assist and cooperate with the Conciliation Officer in resolving any industrial dispute. They should not participate in, support or finance an illegal strike. The Employees have to abide by all agreements, settlements and Awards and they should not indulge in any type of unfair labour practices.

7.8.5.9: TIME BOUND CLEARANCES

Under the Industrial Disputes Act, 1947 for the settlement of Industrial Disputes the application is to be made in plain paper in triplicate. The Authority or the office to be approached is the concerned area Conciliation Officer. Time Limit fixed for the hearing is, within 14\textsuperscript{671} days from the date of the Application.

The researcher hereunder has tabulated the data which were analysed during the study under two different categories. Table 1 highlights the of the settlement in respect of major industries arrived before the conciliation officer and the number of beneficiaries through these settlements different kinds of Industrial disputes during the year 2000 to 2003. Table 2 highlights the tabulated statement showing the particulars of industrial disputes received, settled, ending with failure report and otherwise closed and pending for the year from 1997-98 to 2007-08 before the Conciliation Officer Pondicherry.

\textsuperscript{671} 60 days fixed by the Government of Puducherry
Table 8:
Number of Beneficiaries in the Settlements in Respect Of Major Industries Arrived before the Conciliation Officer, Pondicherry during the year 2000 to 2003.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Name of the Industry and Nature of Dispute</th>
<th>Number of Beneficiaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>Hindustan Lever Limited, Footwear Factory and Union over Charter of demands.</td>
<td>193</td>
</tr>
<tr>
<td>2000</td>
<td>Rane Madras Limited and Union over Wage revision</td>
<td>120</td>
</tr>
<tr>
<td>2000</td>
<td>Hindustan Lever Limited and workmen over Charter of Demands</td>
<td>500</td>
</tr>
<tr>
<td>2000</td>
<td>Servo Packaging Limited and Union over Charter of Demands</td>
<td>180</td>
</tr>
<tr>
<td>2001</td>
<td>Anglo French Textiles and All Trade Unions over running of Canteen.</td>
<td>4552</td>
</tr>
<tr>
<td>2001</td>
<td>Ponds India Limited and Union over Charter of Demands</td>
<td>126</td>
</tr>
<tr>
<td>2002</td>
<td>Sica Breweries Limited and Union over Labour unrest</td>
<td>103</td>
</tr>
<tr>
<td>2002</td>
<td>Puducherry Papers Limited and four unions over closure compensation</td>
<td>206</td>
</tr>
<tr>
<td>2002</td>
<td>Shasun Chemicals and Drugs Limited and Union over wage revision</td>
<td>106</td>
</tr>
<tr>
<td>2002</td>
<td>Maulik Leather Crafts, Private Limited and Union over Charter of Demands</td>
<td>135</td>
</tr>
<tr>
<td>2003</td>
<td>Larsen and Toubro Limited and union over Charter of Demands</td>
<td>127</td>
</tr>
<tr>
<td>2003</td>
<td>Emami Limited and Union over Charter of Demands</td>
<td>155</td>
</tr>
<tr>
<td>2003</td>
<td>Delco Remy Electricals Limited and Union over Charter of Demands</td>
<td>52</td>
</tr>
<tr>
<td>2003</td>
<td>Kaufmann Leather works Private Limited and Union over revision of wages</td>
<td>75</td>
</tr>
</tbody>
</table>
### Table 9:

**STATEMENT SHOWING THE PARTICULARS OF INDUSTRIAL DISPUTES RECEIVED, SETTLED, ENDING WITH FAILURE REPORT AND OTHERWISE CLOSED AND PENDING FOR THE YEAR 1997-98 TO 2007-08 BEFORE THE CONCILIATION OFFICER PONDICHERY**

<table>
<thead>
<tr>
<th>Year</th>
<th>Previous year Pending</th>
<th>Disputes Received</th>
<th>Total Industrial disputes</th>
<th>Settled</th>
<th>Dispute ended with failure report</th>
<th>Otherwise closed</th>
<th>Total Disposal</th>
<th>Pending disputes at the end of the year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997-98</td>
<td>127</td>
<td>163</td>
<td>290</td>
<td>31</td>
<td>11</td>
<td>26</td>
<td>68</td>
<td>222</td>
</tr>
<tr>
<td>1998-99</td>
<td>222</td>
<td>115</td>
<td>337</td>
<td>36</td>
<td>26</td>
<td>30</td>
<td>92</td>
<td>245</td>
</tr>
<tr>
<td>1999-00</td>
<td>245</td>
<td>75</td>
<td>320</td>
<td>54</td>
<td>48</td>
<td>43</td>
<td>145</td>
<td>175</td>
</tr>
<tr>
<td>2000-01</td>
<td>175</td>
<td>123</td>
<td>298</td>
<td>56</td>
<td>55</td>
<td>79</td>
<td>190</td>
<td>108</td>
</tr>
<tr>
<td>2001-02</td>
<td>108</td>
<td>211</td>
<td>319</td>
<td>46</td>
<td>68</td>
<td>120</td>
<td>234</td>
<td>85</td>
</tr>
<tr>
<td>2002-03</td>
<td>85</td>
<td>228</td>
<td>313</td>
<td>48</td>
<td>65</td>
<td>113</td>
<td>226</td>
<td>87</td>
</tr>
<tr>
<td>2003-04</td>
<td>87</td>
<td>212</td>
<td>299</td>
<td>50</td>
<td>74</td>
<td>99</td>
<td>223</td>
<td>76</td>
</tr>
<tr>
<td>2004-05</td>
<td>76</td>
<td>170</td>
<td>246</td>
<td>56</td>
<td>54</td>
<td>73</td>
<td>183</td>
<td>63</td>
</tr>
<tr>
<td>2005-04</td>
<td>63</td>
<td>180</td>
<td>243</td>
<td>88</td>
<td>30</td>
<td>73</td>
<td>191</td>
<td>52</td>
</tr>
<tr>
<td>2006-07</td>
<td>52</td>
<td>139</td>
<td>191</td>
<td>37</td>
<td>40</td>
<td>37</td>
<td>114</td>
<td>77</td>
</tr>
<tr>
<td>2007-08</td>
<td>77</td>
<td>147</td>
<td>224</td>
<td>39</td>
<td>37</td>
<td>71</td>
<td>147</td>
<td>77</td>
</tr>
</tbody>
</table>
The analysis of the statistical data shows the growing trend in preference of the conciliation machineries for the propose of settlement of Industrial disputes in the Pondicherry. This trend has resulted in the Industrial growth and the better functioning of the industries within Pondicherry to the satisfaction of both the employer and employees. With the growth of literacy rate and trade unions active participation in the process of collective bargaining and representations of the causes of their members, it is evident that the role of conciliation machinery and the dispute resolution through these alternative dispute redressal methods are playing a positive role. This has evidently provided for quick, economical, easier and win-win approach in the much-needed area of resolution of Industrial disputes in Pondicherry.

7.9: THE UNION TERRITORY OF PONDICHERRY LEGAL SERVICES AUTHORITY

The field study was undertaken by the researcher at the Union Territory of Pondicherry Legal Services Authority in the months of March 2008 till May 2008. The facts that were gathered by the researcher during the said study is reported here under.

The Legal Aid Movement in Pondicherry was started in the year 1976 under the direction of a retired District Judge and a devoted group of Law College Students. The Legal Aid Clinic run by the students and teachers of the Law College came under this Retired Judge and his group of Law students. The Clinic offered legal advice and rendered preventive legal services, enlightening the public of their legal rights and duties. A group of Lawyers on the panel of the Clinic rendered their services to parties in Civil and Criminal matters. The Clinic engaged, additionally, in Legal Literacy and Community Legal Education Works with the help of
mobile Legal Aid Squads. Further, it gave research support to the solution of poverty-related problems and suggested legislative changes and administrative reforms.

Eventually, the activities of the Clinic diversified into consumer movement, environmental protection, community health and group legal services for workers and peasants. All this while, it functioned as a voluntary agency subsisting on the free services of social-minded Judges, lawyers, law teachers and law students. With the establishment of CILAS (Committee for the Implementation of Legal Aids Scheme) in 1980, the Government of Pondicherry, in 1983, constituted Pondicherry Legal Aid and Advice Board with the Chief Minister as Chairman, the Law Minister as Vice-Chairman and a retired District Judge as Member Secretary with financial assistance flowing, for the first time, from the Government. Regional Legal Aid Committee was constituted for each of the outlying areas: Karaikal, Mahe and Yanam. The provisions of Chapter – III of the National Legal Services Authorities Act, 1987 was extended to Pondicherry on 26-2-1998. On 1-5-1998, the Union Territory of Pondicherry Legal Services Authority was born. With a view to create awareness amongst the public at large regarding various benefits available under Legal Services Authorities Act and also rights available under various Acts, the Union Territory of Puducherry Legal Services Authority arranges various Legal Literacy Programmes even at the farthest and remote areas.

There was a trend of convening specialised Lok Adalats, for the consumer commissions, Banks Recovery cases and insurance companies, to dedicated motor vehicle accident and public utility service disputes.  

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672 Responses obtained from the participants to the questionnaires used for interviews in the UTPLSA during the field study. ANNEXTURE -D
Lok Adalats have been found to be a successful tool of alternate dispute resolution in redressal of such disputes. As such, lok adalats have now been widely accepted and recognized as an effective vehicle for conciliating and settling disputes. In fact, lok adalats are now so popular that they themselves have experienced backlog, some disputants agree to pre litigation conciliations or conciliation as a tactic to further delay the litigation process. The procedural delay and the time taken for by transferring the pending cases before the Courts to the lok adalats, calling for the records vis-à-vis has contributed for the backlog of cases before the Lok Adalats. Nevertheless, the Responses, Interviews of the, judges, disputants and Advocates with the help of well defined questionnaires and the statistical datas collected during the field study undoubtedly show that large number of dispute are successfully settled in the Lok Adalats. In this manner it is getting more popular among the general public as a reliable means of quick and less expensive way of satisfactorily resolving their disputes.

7.9.1: LOK ADALAT

The Lok Adalats are conducted frequently by the State Authority and the Taluk Committees for Banks, nationalised and otherwise, Insurance Companies, Cell phone Companies, Government Departments etc. at request. The party seeking the service of Lok Adalat is expected to intimate the Member Secretary or the Chairman, Taluk Committee on the need for the Adalat making out details of the matters to be placed before the Adalat. On being satisfied that an Adalat could be conducted, necessary permission from the Hon'ble Executive Chairman is obtained

673 Under Section 89 of the Code, Courts have been empowered to explore the possibilities of settlement of disputes through Lok Adalats, arbitration and conciliation.

674 The Graphical representation of statistical data collected from the UTPLSA by the researcher affixed in the theses as ANNEXURE-E series.
by the Member Secretary to conduct an Adalat and the party is informed accordingly indicating the date of the Adalat. Thereafter notices are served on the parties to the disputes requiring them to be present at the Adalat. At the Lok Adalat the parties to the dispute concerned are to be present. A conciliated settlement of the issue in question is reached wherever possible. Based thereon an Award is passed. Matters eluding settlement are closed and the parties informed accordingly. Copies of the Award is furnished to the parties free of cost.

7.9.2: CONTINUOUS LOK ADALAT

The Lok Adalat was set up in Pondicherry on 22-5-2003 and holds sittings on every Friday. Cases are placed before this Adalat from two sources namely the cases transferred from Courts and those cases filed directly in the Adalat.

All kinds of cases are placed before the Adalat. However, in criminal matters cases where the offence is compoundable alone are taken up.

Composition of the Bench is the same as stated in the preceding paragraph. A Bench is normally constituted for four months. At the end of which another bench comes into play. Parties can directly file matters and represent their cases in the Adalat. No monitory jurisdiction is prescribed. The provisions of Chapter VI of the Legal Services Authorities Act, 1987, provides for the constitution of the permanent Lok Adalat675.

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675 The Union Territory Of Pondicherry Lok Adalat Scheme 1999, is Annexed herewith as ANNEXURE ‘C’

Section 19 (Chapter VI) of the Act dealing with Organisation of Lok Adalat runs as follows. Under section 19 (1) every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit. Section 19 (2) states that every Lok Adalat organized for an area shall consist of such number of Serving or retired judicial officers; and Other persons, of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organizing such Lok Adalat. Section 19 (3) provides that, the experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organized by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India. Section 19 (4) provides that, the experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court. Section 19 (5) provides that , a Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties.

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676 The Union Territory of Pondicherry Legal Services Authority Rules,1998 , is Annexed herewith as ANNEXURE "B"
to a dispute in respect of any case pending before; or any matter which is falling within the jurisdiction of, and is not brought before, any Court for which the Lok Adalat is organized. The Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

7.9.4: RELEVANT PROVISIONS OF THE UNION TERRITORY OF PONDICHERY LOK ADALAT SCHEME 1999

In exercise of the powers conferred by clause (g) of section 2 read with clauses (a) and (b) of sub-section (2) of section 7 and section 29-A of the Legal Services Authorities Act, 1987. (Central Act 39 of 1987), as amended in 1994 and all other powers enabling it in this behalf, the Union Territory of Pondicherry Legal Services Authority made the following Scheme namely. The Scheme shall be called the “Union Territory of Pondicherry Lok Adalat Scheme, 1999”.

Section 3 of the scheme provides for the procedure for organizing Lok Adalat. Section 3(1) provides that the Member Secretary of the Union Territory of Pondicherry Legal Services Authority or the Chairman or the Chairperson of Taluk Legal Services Committee or the Regional Legal Services Committee as the case may be, shall convene and organize Lok Adalats at such regular intervals as may be required from time to time.

Under Sub clause (2) The Member Secretary of the Union Territory of Pondicherry Legal Services Authority or the Chairman of the Taluk Legal Services Committee or the Regional Legal Services Committee as the case may be shall inform the State Authority about the proposal to organize the Lok Adalats well in advance on which Lok Adalats are proposed to be organized and furnish the following information to the
State Authority namely, The place, date and time on which the Lok Adalat is proposed to be organized. The Categories and subject-wise nature of the cases viz. pending cases or pre-litigation disputes or both proposed to be placed before the Lok Adalat. The number of cases proposed to be brought before the Lok Adalat. Any other information relevant to the convening and organizing of the Lok Adalat. The composition of the Lok Adalats or the persons to exercise the powers under Chapter VI of the Legal Services Authorities Act, 1987.

The section 5 deals with respect to the notice of the parties concerned. Sub section (1) of this section provides that, the Secretary of the State Authority or Chairman of the Taluk Legal Services Committee or the Regional Committee as the case may be, convening and organizing Lok Adalats shall inform every litigant whose cases are referred to the Lok Adalat well in time so as to afford him necessary opportunity to prepare himself for the Lok Adalat and such notice could be served either on the party or on the Advocate appearing in the case as the case may be or on both of them. Sub section (2) provides that the notice to party or the Advocate shall be sufficient for the purpose of holding Lok Adalat with respect to pending matters as information to the litigant.

Section 6 of the scheme provides for the composition of the Lok Adalats. At the Union Territory level, the Member Secretary of the Union Territory of Pondicherry Legal Services Authority shall organize Lok Adalat with the permission of the Executive Chairman and shall constitute the Benches of the Adalat, each Bench comprising two or three of the following. Namely, a sitting or retired Chief Judge of the Union Territory of Pondicherry or Additional District Judge, a member of the legal profession or the President of the Local Bar Association or a retired Judicial Officer who had discharged the functions of Judicial Officer for
ten years or a Regional Executive Officer who had exercised the executive powers as Class-I Magistrate as may be nominated by the Executive Chairman from time to time.

Section 7 of the scheme provides for the lok adalats at Regional level and Taluk level. The Member Secretary of the State Authority shall organize Regional Lok Adalat with the approval of the Chairman at Pondicherry; Karaikal, Mahe and Yanam. Sub section (2) provides that with the approval of the Executive Chairman, the Member Secretary shall constitute as many Benches as may be required for holding Regional Lok Adalat in each region and each Bench shall comprise two or three following, A sitting or retired Judicial Officer not less than the rank of a Sub Judge and wherever the Sub Judge is not available with the prior permission a Munsif-cum-Judicial Magistrate also could validly constitute; A member of the legal profession as may be nominated by the Executive Chairman or the President of the local Bar Association or a Lecturer in Law having ten years in teaching experience and who had three years standing at the Bar or a retired Judicial Officer who had exercised the powers of First Class Magistrate; and any other eminent person in the field of law or a social worker or leading reputed personality who has no objection to serve the people

Section 8 of the scheme provides for the summoning of records and the responsibility for its safe custody. Sub section (1) provides that, the Member Secretary of the Union Territory of Pondicherry Legal Services Authority or the Taluk Legal Services Committee or Regional Committee, as the case may be, shall call for the judicial records of those pending cases which are referred to the Lok Adalat under section 20 of the Act from the concerned Court. Sub section (2) provides that, if any matter is referred to Lok Adalat at the pre-litigative stage, the version of
each party shall be obtained by the Member Secretary of the State Authority or the Taluk Legal Services Committee or the Regional Committee as the case may be, to be placed Lok Adalat. Sub section (3) provides that the Member Secretary or the Chairman of the Legal Services Committee or the Regional committee of the Lok Adalat shall be responsible for the safe custody of the records that he receives from the Courts from time to time till they are returned. Sub section (4) provides that every Judicial Authority shall co-operate in transmission of the Court records. Sub section (5) provides that, the Judicial records shall be returned immediately after holding Lok Adalat irrespective of whether or not the case is settled by the Lok Adalat with the endorsement about the result of the proceedings and the Regional Committee shall forward a copy of the same to the State Authority from time to time.

Section 9 of the scheme provides for the functioning of Lok Adalat. Sub section (1) provides that, the Member Secretary of the Union Territory of Pondicherry Legal Services Authority or the Chairman of the Taluk Legal Services Committee or the Regional Committee as the cases may be, shall assign cases to the Benches of the Lok Adalat after obtaining orders from the Chairman with respect to the State Authority and in respect of Taluks or regions concerned Chairman of the Taluk Legal Services Committee or the Regional Committee shall be the competent authority to allot cases to the various Benches constituted. Sub section (2) provides that, The Member Secretary shall prepare and circulate a cause list for each Bench of the Lok Adalat and the same shall be notified to all the concerned including the Courts having jurisdiction over the area. Sub section (3) provides that, every Bench of the Lok Adalat constituted for the purpose shall make necessary efforts to bring about a conciliatory settlement in every case placed before it without any
duress or threat or undue influence or allurement or misrepresentation or coercion.

Section 10 of the scheme provides for the holding of Lok Adalat. A Lok Adalat may be organized at such time and place and on such days including Saturdays, Sundays and Public Holidays as the State Authority or the Taluk Legal Services Committee or the Regional Committee deems appropriate.

Section 11 of the scheme provides for the procedure for effecting compromise or settlement at Lok Adalat. Sub section (1) provides that, every Award or Order of the Lok Adalat shall be signed by the panel constituting Lok Adalat. Sub section (2) provides that, the original award or order shall form part of the judicial record and a copy of the award or order shall be given to each of the parties duly certified to be true by the Bench of Lok Adalat. Sub section (3) provides that, in respect of cases already reached finality, the Member Secretary shall be competent to furnish certified copy of the order or award from time to time on payment of such cost, as may be notified by the Member Secretary from time to time.

Section 12 of the scheme provides for the Award or Order in writing. Sub section (1) provides that, every Award or Order of the Lok Adalat shall be categorical, lucid and shall be written in English language and shall also summarily refer the proceedings and the person or the parties. Sub section (2) provides that, the parties to the dispute shall be required to affix their signature or thumb-impression as the case may be, in the minutes of the proceedings as well as on the award or order of the Lok Adalat.
Section 13 of the scheme provides for the compilation of results. The Member Secretary of the State Authority or the Taluk Legal Services Committee or the Regional Committee as the case may be shall compile the results of the Award or Order or such result in the performa as may be prescribed by the State Authority for submission and for being maintained as a regular record which shall be a public record of evidence.

Section 14 of the scheme provides for the remuneration. Subsection (1) provides for every Member of the Lok Adalat Benches shall be entitled to an honorarium and conveyance as may be fixed by the Executive Chairman from time to time. Subsection (2) provides that, the State Authority shall bear such other incidental or other expenses including providing free lunch to the litigants, who participate in the Lok Adalat and their representatives of legal practitioners at pre-negotiation stage or perquisites as may be required to encourage the participants and the members of the Bar.

Procedure for maintenance of record of cases under section 20 of the Act or otherwise is provided under section 15. Subsection (1) provides that, the Member Secretary of the State Authority or the Taluk Legal Services Committee or the Regional Committee as the case may be, shall maintain a register where in all the cases received by them by way of reference to Lok Adalat shall be entered giving the particulars of the case such as (i) date of receipt (ii) category and subject wise nature of the case (iii) name of the disputants, their representatives or counsel (iv) the details of summary of claims (v) the result of the case and such other particulars as may be deemed necessary and the date of settlement and return of the case file. Subsection (2) provides that, when a dispute is finally disposed of by the Lok Adalat an entry shall be made in the register with respect to the ultimate result of the dispute.
Section 16 provides for the budget under the scheme. Subsection (1) provides that, the Member Secretary of the State Authority, Taluk Legal Services Committee or the Regional Committee shall submit budget proposal to the State Authority on a financial year basis in respect of Lok Adalat Scheme for each year well in advance with break-up particulars. Subsection (2) provides that, the expenditure for Lok Adalat Scheme shall constitute non-plan expenditure and may be met out of grants received by the State Legal Services Authority or the Taluk Legal Services Committee as the case may be.

Section 17 provides for the maintenance of accounts. The Member Secretary of the State Authority or the Taluk Legal Services Committee or the Regional Committee as the case may be shall exercise complete and full control over the expenditure to be incurred in the Lok Adalats from time to time and shall render true and proper accounts and maintain records and produce the same as and when required for verification by the State Authority or and Authority constituted by the Executive Chairman from time to time for purpose of verification.

Section 18 provides for the finance. Subsection (1) provides that, on a request received from the State Authority or Taluk Legal Services Committee or Regional Committee as the case may be, the State Authority may release such grants for convening and holding Lok Adalats in regular intervals or as may be required from time to time to meet the exigencies and also provide necessary funds for holding Special Lok Adalats or sittings as the case may be or the occasion may warrant from time to time. Subsection (2) provides that, all the honorarium or other expenditure provided for in this Scheme shall be incurred by the Member Secretary of the State Authority or the Taluk Legal Services Committee or Regional Committee from out of the Legal Aid Funds (by the Taluk
Legal Services Committee or the Regional Committee) as may be authorized from time to time specifically in this behalf by the Executive Chairman or the Member Secretary as the case may be.

7.9.5: THE ORGANISATIONAL CHART OF UNION TERRITORY OF PONDICHERRY LEGAL SERVICES AUTHORITY (UTPLSA):

```
UTPLSA
   ↓
Hon’ble Patron-In Chief
   ↓
Hon’ble Executive In Chief
   ↓
District Judge/Member Secretary
   ↓
Assistant Sec ———— Law Officer
   ↓
Personal Asst. Legal Asst LDC UDC Driver Peon Sanitary Asst
(1) (3) (4) (6) (2) (4) (1)
```
UNION TERRITORY OF PONDICHERRY LEGAL SERVICES
AUTHORITY

Table 10:

Number of LOK ADALAT Sittings, Cases Settled,
Amount Settled by the Union Territory of Pondicherry
Legal Services Authority for the Year 1998 to 2007

<table>
<thead>
<tr>
<th>S.No</th>
<th>Year</th>
<th>Number of Sittings</th>
<th>Number of cases settled</th>
<th>Amount Settled (Rs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1998</td>
<td>20</td>
<td>414</td>
<td>1,40,81,500</td>
</tr>
<tr>
<td>2</td>
<td>1999</td>
<td>11</td>
<td>278</td>
<td>76,30,500</td>
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<tr>
<td>3</td>
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<td>5</td>
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<td>4</td>
<td>2001</td>
<td>7</td>
<td>336</td>
<td>1,38,09,680</td>
</tr>
<tr>
<td>5</td>
<td>2002</td>
<td>5</td>
<td>317</td>
<td>1,29,58,900</td>
</tr>
<tr>
<td>6</td>
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<tr>
<td>7</td>
<td>2004</td>
<td>64</td>
<td>1036</td>
<td>37,23,500</td>
</tr>
<tr>
<td>8</td>
<td>2005</td>
<td>64</td>
<td>765</td>
<td>62,72,674</td>
</tr>
<tr>
<td>9</td>
<td>2006</td>
<td>76</td>
<td>669</td>
<td>99,85,272</td>
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<tr>
<td>10</td>
<td>2007</td>
<td>112</td>
<td>911</td>
<td>1,18,88,184</td>
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</tbody>
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Table 11:
Number of Petitions Received, Disposal and Pending Before
CONCILIATION CELL of the Union Territory of Pondicherry
Legal Services Authority for the Year 1998 to 2007

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Year</th>
<th>Previous Year Pending</th>
<th>Petitions Received</th>
<th>Total</th>
<th>Petitions disposed</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
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<td>1005</td>
<td>3240</td>
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<td>2571</td>
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<tr>
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<td>1674</td>
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<td>2233</td>
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<tr>
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<td>2000</td>
<td>2233</td>
<td>2885</td>
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<td>1682</td>
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<td>2026</td>
<td>5462</td>
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<td>2744</td>
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<td>2744</td>
<td>3586</td>
<td>6330</td>
<td>2899</td>
<td>3431</td>
</tr>
<tr>
<td>6</td>
<td>2003</td>
<td>3431</td>
<td>2677</td>
<td>6108</td>
<td>3448</td>
<td>2660</td>
</tr>
<tr>
<td>7</td>
<td>2004</td>
<td>2660</td>
<td>4075</td>
<td>6735</td>
<td>3188</td>
<td>3547</td>
</tr>
<tr>
<td>8</td>
<td>2005</td>
<td>3547</td>
<td>1859</td>
<td>5406</td>
<td>2818</td>
<td>2588</td>
</tr>
<tr>
<td>9</td>
<td>2006</td>
<td>2588</td>
<td>2161</td>
<td>4749</td>
<td>3267</td>
<td>1482</td>
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<tr>
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<td>2007</td>
<td>1482</td>
<td>9368</td>
<td>10850</td>
<td>3051</td>
<td>7799</td>
</tr>
</tbody>
</table>
The field study that was undertaken by the researcher at the Union Territory of Pondicherry Legal Services Authority reveals the fact that, in the opinion of the disputed parties, Advocates, the Presiding officers and general public, the Lok Adalat constituted under The Legal Services Authority Act, is playing the much needed role in preventing conflicts. The pre-litigation mediation and conciliation are applied in negotiating, bargaining, compromising process of resolving the disputes. With the help of trained mediators, the process of Mediation as a tool can be effectively adopted to anticipate problems, grievances and difficulties between parties before the conflict actually arise. Mediation has the potential of resolving the conflicts that arise in large and private sector organisations, particularly where they are subject to excessive change, competition and economic pressure. A key point in which mediation can be used to prevent these conflicts is complaint handling and management and to minimise the possibility of it developing into a dispute. The success of alternative dispute redressal methods depends on the attitudinal change of the litigant public and the legal fraternity towards it. The Union Territory of Pondicherry Legal Services Authority conducts seminars and camps for educating and advertising about the alternative dispute redressal methods. These steps if continued in future also would definitely play a pivotal role in creating a positive attitude among the public, lawyers, judges, and law students with reference to alternative dispute redressal methods.

Lok Adalat system can thus be said to have brought the pace and dispensation of justice, back in the hands of the people. However, Lok Adalat cannot be seen as the complete solution of the Indian justice system that will rid the bench of delay and put people before procedure. Lok Adalat, on its own, will not save the Indian judiciary.
7.10: STATISTICAL RESEARCH REPORT

To study the working of the different dispute redressal machineries of Pondicherry the researcher has also done the work of statistical analysis of the data along with the research of the above fact. The statistical data collected consequently shows the number of cases filed, cases disposed and cases that are pending before the respective dispute redressing institutions covered during the field study. The data are interpreted with the help of line graphs and bar graphs, which are enclosed herewith in the thesis as Annexure ‘E’. The statistical data collected and used in the course of the study were primarily raw data and derived extract form the official records of the respective institutions. The collection of relevant facts and data in the course of the field study was with the due permission of the authorities of the respective institution as well as that of the Research Guide677.

The survey of the workload of the different dispute redressing institutions at Pondicherry specified above shows quite clearly that in case of the Courts at Pondicherry there has been increasing number of institution and the resultant pending cases. The rate of disposal of the case have not proportionately increased with the rate of institution of cases. The trend of the back-log of pending cases shows that the a substantial number of cases are carried over to the next year, even though in some years the Court managed to deal with the cases instituted before it and, to a marginal extent, some of the back-log of cases. Nevertheless, the data shows that the institution of cases has piled up year after year.

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677 The certificate of authorisation and proof of the collection and permission to use the informations, facts and datas gathered by the researcher in the field study is duly annexed in this research theses as ANNEXURE “F”.
The responses to the questionnaires\textsuperscript{678} posed to the judges, staffs, and advocates of the Courts at Pondicherry shows that as there is increase in the main work of the, the ancillary miscellaneous work of the Courts as reported above has also increased.

The study of the statistical data and the examination of the nature of pending cases in detail show that many cases before the Courts have been pending for a long time. Criminal cases constitute around two-third of the total caseloads, while civil cases make up one-third of the total caseload. Sixty-three percentage (63\%) of civil cases are more than a year old, and out of which thirty-one percentage (31\%) are more than three years old. While fifty-seven percent (57\%) of the criminal cases are more than a year old and out of which twenty-six percentage (26\%) are more than 3 years old. This implies that civil cases tend to be dragged on for a longer time. The reason that could be interpreted from the responses is that criminal cases get higher priority from both the Judges as well as Lawyers side. As majority of the civil cases are commercial disputes, it hampers the settlement of economic disputes, leading to higher transaction cost and general inefficiency in commercial activity. In some cases, the Execution petitions are as old as 30 years. The appeals are pending form eleven years. The petitions filed before the Courts take a minimum of one year to get its first hearing. The appeals are not heard for a period of two to three years in the name of preference being given to the old cases and the different procedural delays starting from the stage of filing a fresh case till the end of getting the decree executed through the Courts. The 1924 Ranking Committee Report has correctly mentioned this facts by saying that “so long as such arrears exists, there is

\textsuperscript{678}The questionnaires addressed to the Judges, Advocates, Litigant public and so forth are annexed here with in this thesis as ANNEXURE-“D”.

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temptation to which many presiding officers succumb, to hold back the heavier contested suits and devote attention to the lighter ones. The turnout of decisions in contested suits is thus maintained somewhere near the figure of institution, while the really difficult work is pushed back into the ground.” The analysis of the Statistical data collected during the field study shows that, the caseload per Judge and that of per judicial staffs is on the higher side. The study of the caseloads indicates Court congestion, although it does not provide information on the judicial delay but gives an indication of judicial arrears. The more the cases are pending before the dispute redressing authorities the general perception is that decisions will be delivered less quickly. Yet the workload continues to mount. Technically, arrears arise whenever a case is instituted before the Court, has not been dealt with immediately, and is pending. Since no case filed before any dispute redressal institution can be dealt with straightaway, arrears are available. Any case that is pending is a case in arrears. In this sense, most of the dispute redressal institution in the world will have arrears. Thus is the analysis of the statistical datas all pending cases are following under the category of arrears. However, the fact being that, the pending cases become examples of arrears only when their continued pendency before the Court gives rise to individual and social injustice. For example, in case of the Industrial dispute, which is pending before tribunal for five years and during which a workman has been denied relief where he alleges wrongful dismissal, a manifest injustice has been created. The field study proves that it is difficult to evolve exact criteria to determine when exactly on the facts of a given case an injustice has been perpetuated.

The number of cases disposed off with respect to the number of filing before the dispute redressing authorities shows its productivity in
the process of dispute resolution. The rate of clearance has a significant effect on the congestion rates. The productivity of the Courts is a very important factor in reducing the problem of backlogs and congestion. Litigations involve lot of delay given the right to appeal, revision and review including the constitutional remedies. Along with the delay comes the wart of expensive litigation process. The expenses is not just about the fees paid to the Advocates and Courts, it includes the cost of conveyance to the Court, Advocates office, loss of man days and the psychological trauma that the litigants face in sustaining the litigation. The situation warrants for, alternative dispute redressal methods like arbitration, mediation, conciliation and their hybrids as alternative to litigation method of resolution of disputes. The study of the Indian Legal History also shows that, India though has a rich tradition of alternative dispute redressal methods but the public are less aware about its authoritativeness and effectiveness in dispute redressal process. When such awareness is created among the public at large it will help in reducing the enormous workload that is imposed on the judiciary. Once the pending cases before the judiciary becomes manageable, the Courts will be able to improve the quality decisions thus improving the access to justice along with the quality of justice.

This increase in work load is also seen in the Legal services authorities place and in the office of Conciliation, Pondicherry. This is evident from the responses to the questionnaires posed by the researcher to the presiding officers, staffs, and litigant public, and advocates that, this shall be mainly due to the increased awareness of the people about the availability of such dispute redressing institutions providing less expensive and quick solutions to their problems.
The accumulations of arrears in the adjudicating institutions in Pondicherry for that matter in any society do not just reflect on the working methods of those institutions but also the litigating nature of the people as a whole. It reflect the awareness of the people about the availability of the different dispute redressal institution. With the increase in population and education among the public the people are to becoming more litigious\textsuperscript{679}. It is evident from the earlier chapters that there is need for the increase in adjudicating institutions even from the grass root level in the form of establishment of Nyaya Panchayat and Lok Adalat. Thus, it is necessary that ways and means must be devised so that disputes can be settled out of Courts at all levels. The disputants need to be educated and persuaded to try to adapt different alternative forms of dispute redressal methods without taxing the formal adjudication machinery, other than as a last resort.

The Field study shows that the Legal Aid cell Pondicherry, Lok Adalat and the Conciliation machinery under the Industrial Disputes Act at Pondicherry has taken steps for playing an effective role in curbing the problem of judicial arrears and delays before the Courts of law. However, there are arrears in these institutions also. Thus, these arrears can only decrease if the litigation activity of the public at large finds some alternate avenue for finding the solutions to their issues leading to the disputes between them. The substance of alternative dispute redressal process is to render justice in the form and content, which not only resolves the disputes but also tends to resolve the conflict in the relationship of the parties, which has paved way for the dispute.

\textsuperscript{679} Evident form the response to the questionnaires (ANNEXURE-“D”) posed to the disputants, Judges, Advocates, Conciliation office, UTPLSA and so forth.
The researcher concludes the field study report by insisting over and over again that, there is an urgent need of adoption and giving preference to the different alternate forms of dispute resolution methods by all. The Courts of Law should continue to put a stamp of authority on the various dispute redressal mechanisms evolved under various parameters and incorporated under various schemes. It should also harness effective means of enforcement of these quick, economical and reasoned justices. In due course, the Courts viability as an effective instrumentality of fulfilling the people’s aspiration will be dully justified. Thus, alternative dispute resolution is not intended to supplant, altogether, the traditional means of resolving the disputes by means of litigation. It offers an alternative option to litigations paying way to reduce the problem of judicial delays and arrears before the Courts.