



\$~4.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 03.11.2023**

% **W.P.(C) 11646/2023 & CM APPL. 45465/2023**

MS. SABIHA PARVEEN Petitioner

Through: **Mr. Hemant Chaudhary, Adv with
Petitioner in person.**

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondent

Through: **Mr. Santosh Kumar Tripathi, SC,
GNCTD with Mr. Arun Panwar, Mr.
Pradyumn Rao, Mr. Utkarsh Singh,
Mr. Kartik Sharma, Ms. Prashansa
Sharma, Mr. Rishabh Srivastava,
Advocates.**

**Mr. Manish Srivastava, Mr. Yash
Srivastava and Mr. Santosh Ramdurg,
Advocates for BSES.**

**Mr. Ashutosh Gupta, ASC with Mr.
Arman Monga, Advocates for MCD.**

**Mr. Sanjay Vashistha, Mr. Vishal
Kumar, Advocates for R-3.**

**Mr. Jai Sahai Endlaw, Advocate for
R-5.**

SI Sonal Raj, PS Daryaganj

Mr. Sher Singh, Delhi Fire Service.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA



SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The Petitioner before this Court has filed the present petition under Article 226 of the Constitution of India as a Public Interest Litigation (“PIL”) seeking for the following reliefs:

“a) Issue a writ of mandamus or other Suitable writ under Article 226 of the Constitution of India directing the Respondents No. 4 for immediate removal / sealing of Illegal and unauthorized construction in the afore mentioned eight properties allowed after by passing all laws and bye laws by the Respondent no. 4 & 5 in connivance with builders.

b) Issue a writ of mandamus or other suitable writ under Article 226 of the Constitution of India directing the Respondents 2 for immediate sealing of structure in the form of unauthorized illegal construction /structure running Hotels at two sites (i.e., properties no. 7 & 8) in Darya Ganj / Old Delhi - Jama Masjid without having necessary permission from government authorities and Fire clearance / NOC from respondent no. 2.

c) Issue a writ of mandamus or other suitable writ under Article 226 of the Constitution of India directing the Respondent No. 6 for immediate removal electricity connections installed at Illegal and unauthorized construction in the afore mentioned eight properties allowed after by passing all laws and bye laws.

d) Issue a writ of mandamus or other suitable writ under Article 226 of the Constitution of India directing the Respondents to file the status report pertains to the illegal and unauthorized construction, and grant of electricity connections etc.

e) Issue any other further order(s) or direction as this Hon’ble Court deem fit and appropriate on the facts and in the circumstances of this case. ”

2. The Petitioner in paragraph 1 of the writ petition has stated *“That the petitioner has no personal interest in the litigation and the petition is not guided by self-gain or for any other person/ institution/ body/ and that there*



is no motive other than of Public Interest in filling the writ petition.”

3. The averments made in the writ petition are duly supported by an affidavit of the Petitioner Ms. Sabiha Parveen and paragraphs 3, 4 and 5 of the affidavit read as under:

“3. That I have gone through the Delhi High Court (Public Interest Litigation) Rules, 2010 and do hereby affirm that the present Public Interest Litigation is in conformity thereof.

4. That petitioner has no personal interest in the litigation and neither myself nor anybody in whom, the petitioner is interested would in any manner benefit from the relief sought in the present litigation save as a member of the General Public. This petition is not guided by selfgain or gain of any person, institution, body and there is no motive other than of public interest in filing this petition.

5. That I have done whatsoever inquiry/investigation which was in my power to do, to collect all data/ material which was available and which was relevant for this court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material /information which may have enabled this court to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not. ”

Meaning thereby, the Petitioner took a stand on affidavit that she has got no personal interest in the matter.

4. The Respondent No.5, who has been impleaded as a Respondent later on and who is the owner of the property in question had preferred an application initially for intervention which has been allowed. In the intervention application, it has been stated on affidavit that the Petitioner is having a family dispute with Respondent No.5 and the Petitioner has been demanding 25 lakhs from Respondent No.5. The Petitioner and Respondent No.5/ applicant are first cousins. The Petitioner is the daughter of the Applicant’s father’s sister, i.e. the Applicant’s *buā* and the Applicant’s



father is the Petitioner's maternal uncle, i.e. mama. All these facts were suppressed while filing the writ petition.

5. The Respondent No.5, prior to filing of the writ petition on 10.05.2023 had lodged a police complaint against the Petitioner in respect of extortion, threat, etc. and as no action was taken in respect of the complaint lodged, he approached the Hon'ble Lieutenant Governor on 23.05.2023.

6. It is unfortunate that the forum of PIL is being used to settle personal scores by suppressing the relationship between the parties. This Court, in the case of *New Rise Foundation Reg. Charitable Trust v. Municipal Corporation Delhi and Ors.*, W.P. (C) 11285/2022 which was again a case for demolition of some property has, in paragraphs 5 to 24 has held as under:

"5. It is very unfortunate that the noble forum of PIL is now being used for blackmailing the citizens. This is not a PIL at all. It is, in fact, a litigation based upon certain photographs resulting in blackmailing type of litigation.

6. The suppression of facts has been admitted before this Court and it is a settled proposition of law that a person who does not comes with clean hands and suppresses material facts is not entitled for any relief whatsoever. The Petitioner otherwise also wants a roving enquiry to be done based upon some photographs and there is no other evidence brought on record to arrive at a conclusion that the structure in question is an unauthorised construction.

7. The Apex Court in the case of K.D. Sharma Vs. SAIL, (2008) 12 SCC 481, has held in paragraph 34 as follows:

"34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean



hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.”

8. *In the light of the aforesaid judgment, as there is suppression of material fact on the part of the petitioner, the petition deserves to be dismissed at the threshold without considering the merits of the claim.*

9. *The Apex Court in the case of Prestige Lights Ltd. Vs. SBI, (2007) 8 SCC 449, has held in paragraphs 33 & 35 as follows:*

“33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.

x x x x x x x

35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a writ court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, the court



may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible.”

10. *In the aforesaid case, it has been held that when a party approaches a Court, he must place all facts before the Court without any reservation and in case there is suppression of material facts, the writ petition deserves to be dismissed without entering into the merits of the matter.*

11. *In the present case, the petitioner has deliberately suppressed the factum of filing of the earlier writ petition, i.e. W.P.(C) No. 9150/2022 which was in respect of the same property, and therefore, the petition deserves to be dismissed.*

12. *In the case of Dalip Singh Vs. State of U.P., (2010) 2 SCC 114, the Hon’ble Supreme Court in paragraphs 2 and 24 has held as under:*

“2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

*x x x x x x x x
x*

24. *From what we have mentioned above, it is*



clear that in this case efforts to mislead the authorities and the courts have transmitted through three generations and the conduct of the appellant and his son to mislead the High Court and this Court cannot, but be treated as reprehensible. They belong to the category of persons who not only attempt, but succeed in polluting the course of justice. Therefore, we do not find any justification to interfere with the order under challenge or entertain the appellant's prayer for setting aside the orders passed by the prescribed authority and the appellate authority.”

13. *The Apex Court in the aforesaid case has held that a litigant who attempts to pollute the stream of justice, or who touches the pure fountain of justice with tainted hands, is not entitled to any relief – interim or final.*

14. *The petitioner NGO has certainly not come with clean hands. The attempt on the part of the petitioner is nothing but an attempt to blackmail others, and therefore, the petitioner suppressed the fact of filing of the earlier petition. Therefore, the present petition deserves to be dismissed in the light of the aforesaid judgment.*

15. *The Apex Court in the case of Amar Singh Vs. Union of India, (2011) 7 SCC 69, has held in paragraphs 50 & 53 as under:*

“50. This Court wants to make it clear that an action at law is not a game of chess. A litigant who comes to Court and invokes its writ jurisdiction must come with clean hands. He cannot prevaricate and take inconsistent positions.

x x x x x x x x
x

53. Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts. Courts held that such litigants have come with “unclean hands” and are not



entitled to be heard on the merits of their case.”

16. *The Apex Court has again dealt with a litigant who does not disclose full facts and who approached the Court with unclean hands.*

17. *The misuse of Public Interest Litigation has been considered by the Hon’ble Supreme Court in the case of Janata Dal Vs. H.S. Chowdhary, (1992) 4 SCC 305. Paragraph 98 of the aforesaid judgment reads as under:*

“98. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly-developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.”

18. *The Hon’ble Supreme Court in the aforesaid case has held that the forum of approaching Courts by way of newly developed Doctrine of Public Interest Litigation should not be permitted to be abused, and in the considered opinion of this Court, the petition is nothing but sheer abuse of the Doctrine of Public Interest Litigation, and therefore, deserves to be dismissed.*

19. *The Apex Court in the case of Dattaraj Nathujithaware Vs. State of Maharashtra, (2005) 1 SCC 590, has held in paragraph 15 as under:*

“15. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra v. Prabhu [(1994) 2 SCC 481 : 1994 SCC (L&S) 676 : (1994) 27 ATC 116] and A.P.



*State Financial Corpn. v. GAR Re-Rolling Mills [(1994) 2 SCC 647 : AIR 1994 SC 2151] .) No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. [See *Buddhi Kota Subbarao (Dr.) v. K. Parasaran [(1996) 5 SCC 530 : 1996 SCC (Cri) 1038 : JT (1996) 7 SC 235]* .] Today people rush to courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in courts and among the public.”*

20. *The Apex Court in the case of Tehseen Poonawalla Vs. Union of India, (2018) 6 SCC 72, has held in paragraph 98 as under:*

“98. The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This Court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to



cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.”

21. *The Hon’ble Supreme Court in the aforesaid case has shown concern about misuse of Public Interest Litigation and has also shown concern about the large number of Public Interest Litigations which have flooded the High Courts and the Hon’ble Supreme Court. It has been held by the Hon’ble Supreme Court that personal scores, personal disputes and political rivalries should not be resolved through PIL.*

22. *In the considered opinion of this Court, the present petition is nothing but a sheer abuse of the process of law and therefore, this Court is of the opinion that the present petition deserves to be dismissed at admission stage itself with costs of Rs.10,00,000/- (Rupees Ten Lakhs) to be paid to the Army War Widows Fund within a period of 30 days from today.*

23. *It is made clear that if the amount is not paid within 30 days from today, the Sub-Divisional Magistrate, Saket will recover the amount as arrears of land revenue and shall transfer the same to the Army War Widows Fund with intimation to the Registrar General of this Court.*

24. *The Registrar General shall monitor the recovery as ordered by this Court. The Petitioner shall appear before the Registrar General for reporting compliance on 02.09.2022.”*



7. In light of the aforesaid judgment, a person who has not come with clean hands is not entitled for any relief and, in the present case, this Court is of the firm opinion that the Petitioner has not approached this Court with clean hands. Nothing prevented the Petitioner from disclosing the relationship with Respondent No.5. The Petitioner who is present in person has admitted the relationship with Respondent No.5 in open Court and, therefore, as the Petitioner was certainly an interested person, the Petition deserves to be dismissed with costs of Rs. 1,00,000/- to be paid to Army Battle Casualties Welfare Fund within 30 days from today.

8. The Petitioner's conduct by giving a wrong statement in the writ petition duly supported by an affidavit amounts to committing contempt of Court, however as the Petitioner is a lady we are refraining ourselves from proceeding against the Petitioner as cost has already been imposed. The Petitioner is warned to be careful in future, and not to file such frivolous petitions again by suppressing material facts.

9. The petition stands disposed of in the aforesaid terms.

SATISH CHANDRA SHARMA, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 3, 2023

N.Khanna