

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****PUBLIC INTEREST LITIGATION NO. 196 OF 2015**

Shrikrishna Eknath Godbole .. Petitioner
versus
The Union of India & Anr. .. Respondents

Ms Shruti Tulpule for Petitioner.

Mr. Parag Vyas for Respondent No. 1.

Mr. A. B. Vagyani – GP with Mr. M. M. Pabale - AGP for State.

**CORAM: DR. MANJULA CHELLUR, C. J. AND
M. S. SONAK, J.**

DATE : 18 NOVEMBER 2016

P.C.:

1] Heard Ms. Tulpule, learned counsel for the petitioner.

2] The petitioner, an Advocate aged 82 years, practicing in Solapur, by way of this public interest litigation seeks the following reliefs, by way of the present purported public interest litigation.

“ That this Hon'ble Court may be pleased to strike down the words “graduated according to rank, race and nationality” as being ultra vires Article 14 and Article 18 of the Constitution.”

3] In ***Guruvayoor Devaswom Managing Committee vs. C. K. Rajan***¹, the Hon'ble Supreme Court has summarised the principles evolved in the matter of entertainment of public interest litigations in paragraph 50. In sub paragraph xi one of the principle stated, reads thus :

“(xi) Ordinarily, the High Court should not entertain a writ petition by way of public interest litigation questioning the constitutional or validity of a statute or a statutory rule.”

¹ (2003) 7 SCC 546

4] Applying the aforesaid principle, we see no reason to entertain the present petition seeking the striking down of certain portions of Section 57 of the Code of Civil Procedure, 1908 (CPC). The petitioner, is neither a judgment debtor nor a decree holder, as such, it is not understood as to how the petitioner is affected by the provisions of Section 57 of CPC. The petitioner has also not made out any case that judgment debtors or decree holders, in general, are placed in such a position as disable them from espousing their own grievances. At the behest of the petitioner, therefore, there is no case made out to entertain the present public interest litigation.

5] Incidentally, the petitioner had also instituted public interest litigation 166 of 2016 in order to question the constitutional validity of Section 56 of CPC. By order dated 21 October 2016, the same came to be dismissed.

6] Accordingly, we dismiss the present petition. However, there shall be no order as to costs.

CHIEF JUSTICE

(M. S. SONAK, J.)