



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.19925 of 2013
and
MP (MD) Nos.1 and 2 of 2013
and
W.P (MD) No.2232 of 2014

W.P (MD) No.19925 of 2013

V.Ramesh

... Petitioner

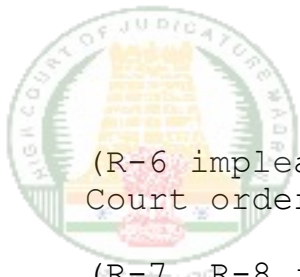
Vs.

- 1.The Private Secretary, to
His Excellency President of India,
Presidential Secretariat,
Rashtrapathy Bhavan, New Delhi-1.
- 2.The Registrar General,
Supreme Court of India,
Tilak Marg, New Delhi- 110 001.
- 3.The Union of India,
Represented by its Secretary,
Ministry of Law, Justice and Company Affairs,
New Delhi - 110 001.
- 4.The Registrar General,
Madras High Court, High Court Buildings,
Chennai - 104.
- 5.The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai. 23.
- 6.M.Vennila
- 7.A.K.Ramasamy,
Advocate,
Secretary, Madurai Bar Association,
Madurai District Court Buildings,
Madurai-20.

<https://hcservices.ecourts.gov.in/hcservices/>

8.T.Stephen

... Respondents



(R-6 impleaded as a party respondent vide Court order dated 16.12.2013 in M.P(MD)No.3 of 2013)

(R-7, R-8 impleaded as per order dated 10.03.2015 in M.P(MD)Nos.1 and 2 of 2014.)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 02.12.2013 and consequently, reattach Coimbatore, Tiruppur, Erode, Namakkal, Salem, Perambalur, Ariyalur, Thiruvavarur, Nagapattinam, Nilgris with the Madurai Bench of Madras High court.

For Petitioner	: No Appearance
For R-2 & R-3	: Mr.D.Saravanan
For R-4 & R-5	: Mr.D.Sivaraman
For R-6 to R-8	: Mr.S.M.Ananthamurugan

W.P(MD)No.2232 of 2014 :

K.K.Ramesh,
Managing Trustee,
Tamil Nadu Centre for Public Interest Litigation,
No.26A, Old Mahalipatti Road,
Madurai-625 001.

...Petitioner

Vs.

- 1.The Private Secretary,
His Excellency President of India,
Presidential Secretariat,
Rashtrapathy Bhavan, New Delhi-1.
- 2.The Registrar General,
Supreme Court of India,
Tilak Marg, New Delhi- 110 001.
- 3.The Union of India,
Represented by its Secretary,
Ministry of Law, Justice and Company Affairs,
New Delhi - 110 001.
- 4.The Registrar General,
Madras High Court, High Court Buildings,
Chennai - 104.
- 5.The Registrar (Judicial)
Madras High Court,
Madurai Bench,
Madurai - 625 023.



6.The Law Secretary,
Government of Tamil Nadu,
Fort St.George, Secretariat,
Chennai - 600 009.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to add Coimbatore, Tiruppur, Erode, Namakkal, Salem, Perambalur, Ariyalur, Thiruvarur, Nagapattinam, Nilgris Districts with the Madurai Bench of Madras High Court to render justice to poor and middle income people and aggrieved litigants, by considering the petitioner's representation dated 20.12.2013.

For Petitioner	: K.K.Ramesh (Party-in-person)
For R-2 & R-3	: Mr.D.Saravanan
For R-4 & 5	: Mr.D.Sivaraman
For R-6	: Mr.A.Muthukaruppan
Additional Government Pleader	

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the main Writ Petitions itself are taken up for final disposal.

2. The matter in issue involved in both the Writ Petitions is one and the same and therefore, both the Writ Petitions are disposed of by this common order.

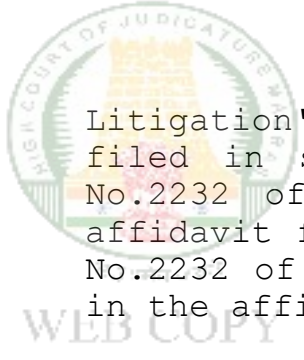
W.P(MD)No.19925 of 2013:

3. The petitioner claims to be a practising Advocate came forward to file this Writ Petition as a 'Public Interest Litigation' stating among other things that as per the Madras High Court (Establishment of Permanent Bench at Madurai) Amendment Order, 2009, a Permanent Bench of Madras High Court came to be constituted at Madurai.

4. The grievance expressed by the petitioner is that the District of Coimbatore, Tiruppur, Erode, Namakkal, Salem, Perambalur, Ariyalur, Thiruvarur, Nagapattinam, Nilgris, are located within short distance than that of the Principal Bench at Chennai and in this regard, he submitted a representation dated 02.12.2013 on behalf of the litigating public, to attach the said Districts with the Madurai Bench of Madras High Court. Since the said representation has not been considered, he came forward to file this Writ Petition.

W.P(MD)No.2232 of 2014:

5. One Mr.K.K.Ramesh, who claims to be the Managing Trustee of Tamil Nadu Centre for Public Interest Litigation, Madurai, came forward to file this Writ Petition styled as a 'Public Interest



Litigation', for the similar prayer and comparison of the affidavit filed in support of W.P(MD)No.19925 of 2013 as well as W.P(MD) No.2232 of 2014, would disclose that the averments made in the affidavit filed in support of the second Writ Petition ie., W.P(MD) No.2232 of 2014 are the verbatim reproduction of the averments made in the affidavit filed in support of W.P(MD)No.19925 of 2013.

6. The petitioner in W.P(MD)No.2232 of 2014 was originally represented by a learned counsel namely, Mr.M.S.Suresh Kumar, who has also filed a memo of withdrawal of vakalat vide USR No.4484 of 2015.

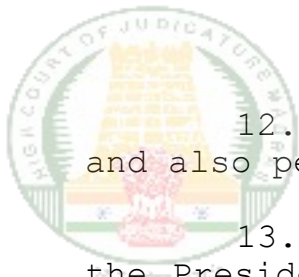
7. The petitioner in W.P(MD)No.2232 of 2014 is also personally present before this Court. The memo of withdrawal filed by Mr.M.S.Suresh Kumar, dated 02.06.2015, is taken on file and the same is recorded.

8. Though the name of Mr.S.Karunanithi, learned counsel on record for the petitioner in W.P(MD)No.19925 of 2013, is printed in the cause-list, there is no representation on his behalf.

9. The learned counsel appearing for respondents 6 to 8 in W.P(MD)No.19925 of 2013 would submit that he is supporting the prayer sought for by the petitioner and it would suffice to direct the concerned respondents to consider and dispose of the representation dated 02.12.2013, on merits and in accordance with law, within a stipulated time frame and similar prayer has also been made by the petitioner/party-in-person in W.P(MD)No.2232 of 2014.

10. Mr.D.Saravanan, learned counsel appears for R-2 and R-3 and Mr.D.Sivaraman, learned counsel appearing for R-4 and R-5 would submit that the present Writ Petitions are nothing but purely an abuse of process of law and has also drawn the attention of this Court to the judgment reported in 2004(4) M.L.J. 380(DB) (V.Subramanian v. Union of India, represented by its Secretary to Ministry of Law and Justice, Department of Justice, New Delhi and others) and would submit that in the light of the said decision, repeated representations submitted in that regard cannot be directed to be disposed of and it also amounts to revival of a stale claim.

11. Further, the learned counsel in support of his submission, has placed reliance upon the judgment reported in (2000) 6 SCC 715 (Federation of Bar Associations in Karnataka v. Union of India) and would submit that as against the common order, which is reported in 2004(4) M.L.J. 380(DB) in respect of the orders passed in W.P.No.20725 of 2004, Special Leave Petition(Civil) No.1852 of 2005 was filed by one Mr.N.Senthilvelan and the Honourable Supreme Court of India has dismissed the said S.L.P., vide order dated 18.02.2005, by holding that in the light of the decision reported in (2000) 6 SCC 715(cited supra), the Advocates have got no locus standi to file such Writ Petitions and prays for dismissal of these Writ Petitions with exemplary costs.



12. This Court has carefully considered the rival submissions and also perused the materials placed before it.

13. In the judgment reported in (2004) 4 M.L.J. 380, vires of the Presidential Order titled 'The Madras High Court (Establishment of a Permanent Bench at Madurai) Order, 2004', was put to challenge and it is to be noted at this juncture that it is a matter concerning the constitution of Madras High Court Bench at Madurai and the Division Bench has also noted that the said litigation is a second round of litigation and the earlier round of litigation went even up to the Supreme Court of India.

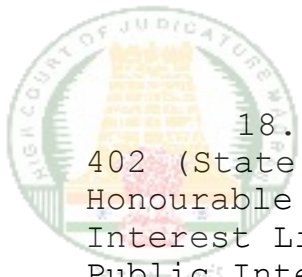
14. The Division Bench in the decision reported in (2004) 4 M.L.J.380(cited supra) held that the petitioners therein have got no locus standi to maintain these Writ Petitions and further held that the Writ Petitions have to fail even on the ground underlying the principles of res judicata under Section 11 of Code of Civil Procedure as one set of advocates, who have already filed litigation in this regard have lost their brief and merely because a different set of advocates have filed the Writ Petitions, the matter cannot be revived.

15. This Court has already pointed out that totally five Writ Petitions were filed in W.P.Nos.20038, 20042, 20043, 20529 and 20725 of 2004, which came to be dismissed by a common order dated 08.10.2004 (reported in (2004) 4 M.L.J. 380) and one of the petitioners therein namely, one Mr.N.Senthilvelan, against the dismissal of W.P.No.20725 of 2004, filed a Special Leave Petition (Civil) No.1852 of 2004 and the said S.L.P was dismissed on 18.02.2005 and it is relevant to extract the said order:

"As has been held by this Court in the case of Federation of Bar Associations in Karnataka v. Union of India reported in (2000) 6 SCC 715 , the Advocates have got no locus to file such Writ Petitions. We thus, see no reason to interfere. The Special Leave Petition is dismissed. Question of law is left open."

16. The petitioner in W.P(MD)No.19925 of 2013, claims that he is a practising Advocate. A perusal of the affidavit would disclose that except extracting the said Amendment Order, 2009 and giving details of the distance between Madurai and the ten Districts, which are sought to be attached with Madurai Bench of Madras High Court, he has not culled out any statutory provisions or legal rights under which, he is seeking issuance of a Writ of Mandamus.

17. It is a well settled position of law that for issuing a Writ of Mandamus, it is the duty cast upon the concerned petitioner to plea as to the violation of the statutory provisions or non-adherence to the statutory provisions and unfortunately, the petitioner, who claims to be an Advocate, did not aver anything in the affidavit filed in support of the Writ Petition.

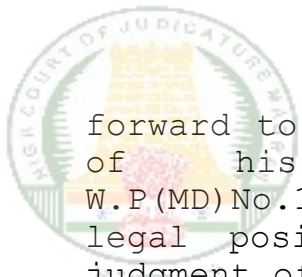


18. In the judgment reported in (2010) 2 Supreme Court Cases 402 (State of Uttaranchal v. Balwant Singh Chaufal and others), the Honourable Supreme Court of India dealt with the subject of 'Public Interest Litigation' and has also taken into consideration about the Public Interest Litigation being filed by a practising Lawyer and it is relevant to extract the following paragraphs:

"It was expected from a member of noble profession not to invoke jurisdiction of the court in a matter where controversy itself is no longer res integra. The petitioner, a local practising lawyer, ought to have bestowed some care before filing his writ petition in public interest under Article 226 of the Constitution. The controversy raised by the petitioner was decided 58 years ago by the High Court in Karkare, AIR 1952 Nag 330, which was approved by the Constitution Bench way back in 1962 in Atlas Cycle, AIR 1962 SC 1100. When the controversy is no longer res integra and the same controversy is raised repeatedly, then it not only wastes precious time of the Court and prevents the demeaning a very important constitutional office, and the person who has been appointed to that office. This is a clear case of abuse of process of the Court in the name of public interest litigation. A degree of precision and purity in presentation is a sine qua non for a petition filed by a member of the Bar under the label of public interest litigation. It is expected from a member of the Bar to at least carry out the basic research whether the point raised by him is res integra or not. The lawyer who files such a petition cannot plead ignorance. This is a classic case of abuse of process of Court. A practising lawyer has deliberately abused process of the Court. In that process, he has made a serious attempt to demean an important constitutional office. The petitioner ought to have refrained from filing such a frivolous petition.

This however does not mean that a petitioner cannot ask the court to review its own judgment because of flaws and lacunae, but there should have been a bona fide presentation with listing of all relevant cases in a chronological order and a brief description of what judicial opinion has been and cogent and clear request why there should be reconsideration of the existing law. The petitioner in the present case has not done this exercise. The petition has been filed for extraneous considerations. Such petition deserves to be discarded and discouraged so that no one in future would attempt to file a similar petition."

19. It is unfortunate that the petitioner, who claims to be a practising advocate before the Madurai Bench of Madras High Court, not even worked on the legal position and merely came



forward to file the present Writ Petition seeking disposal of his representation. If the petitioner in W.P(MD)No.19925 of 2013, who claims to be a Lawyer worked out the legal position, definitely he would have become aware of the judgment of the Honourable Supreme Court of India reported in (2000) 6 SCC 715 (cited supra) as well as the decision rendered by a Division of this Court reported in 2004(4) MLJ 380 (cited supra). But, unfortunately, he failed to discharge his duty as a Lawyer, especially happens to be a petitioner in the Public Interest Litigation.

20. Insofar as the petitioner in W.P(MD)No.2232 of 2014 is concerned, this Court has already pointed out that the averments made in the affidavit filed in support of the said writ petition, are the verbatim reproduction of the averments made in the averments made in the affidavit filed in support of W.P(MD)No.19925 of 2013. The petitioner, who is also present today is repeatedly filing Public Interest Litigation and therefore, he is also under obligation to look into the relevant provisions and draft the affidavit in a careful manner for the purpose of helping the Court and unfortunately, he has also failed to do so.

21. This Court on a careful analysis and consideration of the entire materials, is of the considered view that the present Writ Petitions are nothing but an abuse of process of law and deserve dismissal.

22. This Court hope and trust that in future, the petitioners herein while filing Public Interest Litigations, shall bestow their mind and attention to the relevant statutory provisions and draft the affidavits, in a careful manner to avoid inconvenience being caused to the Court.

23. In the result, the Writ Petitions are dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Registrar General,
Supreme Court of India,
Tilak Marg, New Delhi- 110 001.

2.The Secretary,
Union of India,

<https://hcservices.ecourts.gov.in/hcservices/>
Ministry of Law, Justice and Company Affairs,
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3.The Registrar General,
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Government of Tamil Nadu,
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Chennai - 600 009.

COPY TO:

1.The Legal Cell,
Madras High Court,
Madras.

2.The Legal Cell,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.D.Sivaraman, Advocate SR.No. 44157
+1cc to Special Government Pleader, SR.No. 44605
+1cc to M/S.D.Saravanan, Advocate SR.No. 44084

ORDER MADE IN
W.P (MD) No.19925 of 2013
and
MP (MD) Nos.1 and 2 of 2013
and
W.P (MD) No.2232 of 2014
24.01.2018

pm
JM/SV MMS/SAR 4/13.02.2018/8P/11C