

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO**

WRIT PETITION NO.44845 OF 2017

O R D E R

(Per Hon'ble Sri Justice Sanjay Kumar)

The prayer in this writ petition reads as under:

'This Hon'ble Court may be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondent in issuing the possession notice dated 21.09.2017 in respect of the house property i.e. Item No.4 of the possession notice, as the same as bad, illegal, arbitrary, discriminatory, irrational and unconstitutional and violative of the principles of natural justice and consequently to grant stay of possession notice dated 21.09.2017 issued by the Respondent to the Petitioner in respect of the house property i.e., Item No.4 of the possession notice and to direct the Respondent not to lock the house property of the petitioner i.e. Item No.4 of the possession notice dated 21.09.2017 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

Smt. V.Dyumani, learned counsel for Andhra Bank, the respondent herein, would however inform this Court that the writ petitioner earlier filed W.P.No.37219 of 2017, wherein she prayed as follows:

'to issue a Writ, Order or Direction(s) more particularly, one in the nature of Writ of Mandamus declaring the action of the Respondents in issuing possession notice dated 21-09-2017 in Namaste Telangana Telugu Daily Newspaper as the same as bad, illegal, arbitrary, discriminatory, irrational and unconstitutional and violative of the principles of natural justice.'

The said writ petition was dismissed by this Court on 07.12.2017 observing that the contentious disputed questions of fact sought to be raised by the petitioner would not be amenable to resolution in a writ petition and leaving it open to the petitioner to seek redressal of her grievance before the appropriate forum.

Suppressing the factum of her having filed the earlier writ petition, the present writ petition has been filed. No mention is made in the affidavit filed in support of the present writ petition of the petitioner having filed W.P.No.37219 of 2017 and having suffered the adverse order dated 07.12.2017 passed therein.

Significantly, in **K.D.SHARMA V/s. STEEL AUTHORITY OF INDIA LIMITED**¹, the Supreme Court observed as under:

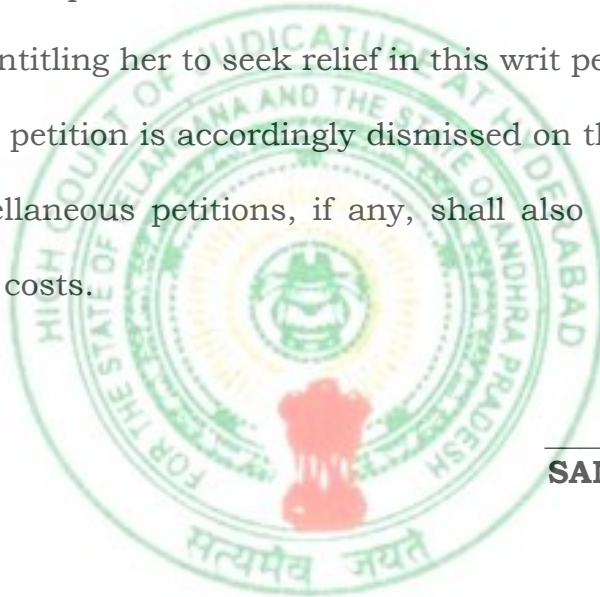
‘As per settled law, the party who invokes the extraordinary jurisdiction of the Supreme Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play “hide and seek” or to “pick and choose” the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in the disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of the writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because “the court knows law but not facts”. An applicant who does not come with candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all

¹ (2008) 12 SCC 481

the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.'

In the light of this authoritative edict of the Supreme Court, it is clear that the petitioner has approached this Court by way of the present writ petition with unclean hands. Failure to disclose the filing of the earlier writ petition amounts to clear abuse of process by the petitioner disentitling her to seek relief in this writ petition.

The writ petition is accordingly dismissed on this short ground. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR, J

P.KESHAHA RAO, J

22nd JANUARY, 2018

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