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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO.92 OF 2019

Abhijit S/o Ramesh Mapari,
Age: 44 years, Occu:Agriculture,
R/o NewasaKhurd, Tal. Newasa,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra,
through Collector Office,
Ahmednagar
2. The District Administration Officer,
Collector Office, Ahmednagar
3. The Chief Officer,
Nagarpanchayat, Newasakhurd,
Tal-Newasa, Dist- Ahmednagar
4. Sachin S/o Haribhau Gavare
Age 38 years, Occ- Contractor
R/o Kukana, Tal-Newasa,
Dist- Ahmednagar
5. Rajendra S/o Laxman Lonkar,
Age 45 Yrs, Occ- Contractor
R/o Nalegaon, Hadako Colony,
Tal. Dist. Ahmednagar
6. Bhausahab S/o Mohan Wagh,
Age: 55 years, Occu. Agriculture
7. Ashok S/o Dinkarrao Take,
Age: 45 years, Occ. Agriculture
8. Balendra S/o Marutrao Potdar,
Age 50 years, Occu: Business,

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No.6 to 8 R/o. NewasaKhurd,
Tal-Newasa, Dist- Ahmednagar.

..RESPONDENTS

Mr Krushna D Mote, Advocate for petitioner;
Mr S. P. Sonpawale, A.G.P. for respondent Nos.1 & 2

**CORAM : PRASANNA B. VARALE
AND
AVINASH G. GHAROTE, JJ.**

DATE : 24th September, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner at length

2. The present petition is filed as a public interest litigation. The petitioner is an agriculturist. It may be necessary for us to refer to certain facts, which are reflected on perusal of the petition.

3. The petitioner, firstly, approached the learned Civil Judge Senior Division, Newasa and it seems that along with petitioner, there were some other persons, who were plaintiffs and they filed a Regular Civil Suit No. 75 of 2019. Along with the suit, an application was filed under Section 91 of the Code of Civil Procedure, 1908 to permit them to institute the suit in representative capacity. By a detailed order, the learned Civil Judge Senior Division rejected the application finding no

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favour with the applicants and by clause (2) of the order, the leave sought for under Section 91 of the Code of Civil Procedure was declined in clear words. The petitioner, thereafter has approached this Court with following prayers:-

"(B) This Hon'ble Court be pleased to issue a writ, order or direction in the nature of Mandamus to respondent no.1 made inquiry about the work of underground drainage.

(C) The respondent no. 4 and 5 may be directed that the underground drainage is of lower quality therefore remove all the underground drainage construction and rework all the construction according to the plan estimate and terms and conditions of the contract.

(D) Till the inquiry will be held the further work of underground drainage and construction of road over it may be stayed."

4. It would be interesting to note the order of the Division Bench of this Court, dated 12th June, 2019, which reads thus:

"In the present writ petition, we are certainly not in a position to consider prayer clause-B challenging the order of Civil Judge. For rest of the prayer the matter would be in the nature of P.I.L. The petitioner may take appropriate steps."

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5. It was an attempt of learned Counsel for the petitioner that in view of the order of this Court, dated 12th June, 2019, the present petition be treated as public interest litigation on the basis of rest of the prayer clauses i.e. prayer clauses (C) and (D). The only material placed on record is in the form of various representations submitted to the authority and a solitary photograph at page No.32. Firstly, the photograph is wholly illegible and it can hardly reflect the fact situation as in the photograph, only a part of open pipeline surrounded by water is seen.

6. The grievance of the petitioner is that the entire work undertaken by Newasa Nagar Panchayat of laying the underground pipelines which is already completed is of sub-standard quality. This opinion is formed by the petitioner himself on the basis of his representations, without there being any material in the form of an opinion of the expert even preliminary to suggest that the entire work is of sub-standard quality.

7. The petitioner is admittedly an agriculturist and on query put to the learned Counsel for the petitioner, as to whether the petitioner possessed any special knowledge in the field of civil construction, in

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general and under ground drainage of water pipelines in particular, he submitted that no such expertise is possessed by the petitioner as he is an agriculturist.

8. Then it was the submission of the learned Counsel for the petitioner that the tenders were floated and work order was issued and the contractor carried out substandard work. This is only a statement, without there being any supporting material, so as to accept such a bald statement. It can safely be stated that, on such incomplete, vague material, this Court cannot entertain the petition as a public interest litigation and more so cannot grant the prayer like prayer Clause (C), wherein the petitioner prays for removal of all underground drainage constructions and rework of constructions.

9. The public interest litigation, thus, is filed on an erroneous assumption & presumption, and needs to be dismissed at the threshold and same is accordingly dismissed.

(AVINASH G. GHAROTE, J.)

(PRASANNA B. VARALE, J.)

sjk