

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.8729 of 2019

T.Shanmugasundaram

.. Petitioner

Vs.

1. The District Collector,
Erode,
Erode District.

2. The Tahsildar,
Modakurichi Taluk,
Erode District.

3. The Block Development Officer,
Modakurichi Panchayat Union,
Modakurichi,
Erode District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents to take necessary steps regarding the representation dated 31.12.2018.

For Petitioner : Mr.Kolandasamy .S

For Respondents : Mr.E.Manoharan (for R1 & R2)
Addl. Govt. Pleader

Mr.Akil Akbarali (for R3)
Government Advocate

ORDER

(Order of this Court was made by **SUBRAMONIUM PRASAD, J.**)

The petitioner claiming to be a public interest litigant, has filed this writ petition for the following relief.

"for a Writ of Mandamus, directing the respondents to take necessary steps regarding the representation dated 31.12.2018."

2. The petitioner states that the District Collector, Erode, has sanctioned a tender for the formation of Tar Road for 1 km for a sum of Rs.48 Lakhs. He states that after the sanction, a few private persons laid pipes in the middle of the road for drawing water for their personal use. According to him, the pipes were laid down without getting permission from the competent authorities and laying of pipe was illegal.

3. According to the petitioner, the roads would be laid over pipes, which is not correct. The petitioner would state that the Block Development Officer, Modakurichi Panchayat Union, Erode District, has not taken any steps to remove the pipes and the road would be laid over the pipes. According to the petitioner, if the pipe starts leaking, it would spoil the tar road.

4. The petitioner states that he has given a representation to this effect,

but no action has been taken. The petitioner therefore, has filed the present

writ petition, which is primarily directed for removing the pipes before the tar road is laid over them.

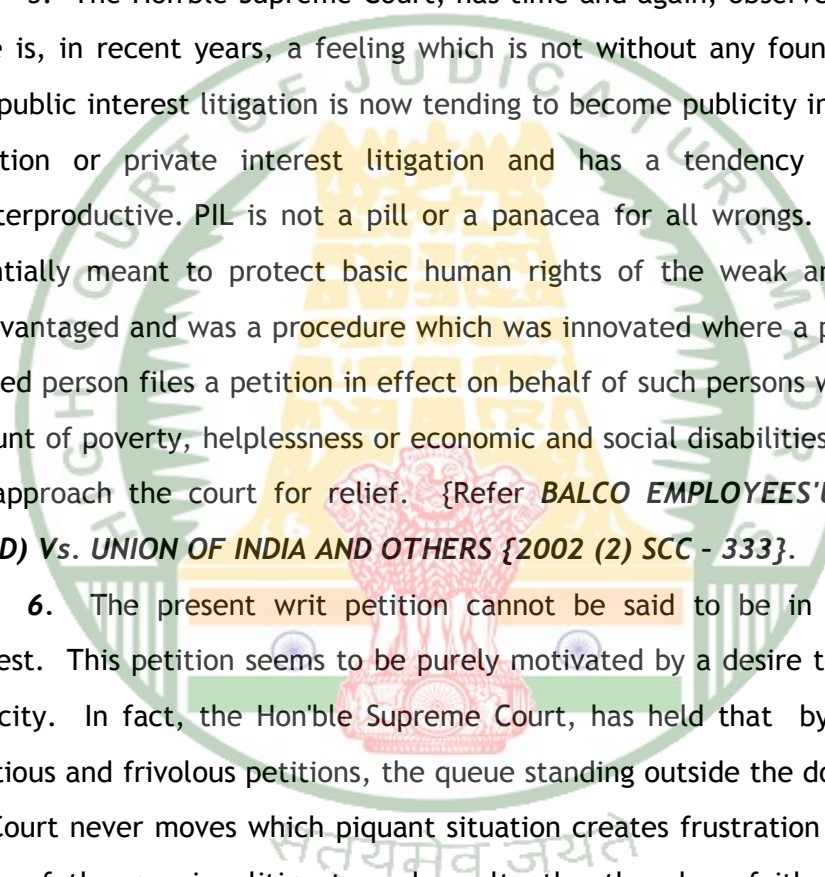
5. A perusal of the record would show that the petitioner himself is a PWD contractor. Tender has been sanctioned. It is between the tenderer and the Government to take a decision on this aspect as to whether the pipes should be removed or not and whether the tar road should be laid over the pipe or not.

6. Other than stating that the tar road will be laid over pipes, no material has been placed before us. Only a copy of the representation dated 31.12.2018 has been filed. This public interest writ petition cannot be called as a bonafide public interest litigation, in the absence of any material. The mere *ipse dixit* of the petitioner that the tar road will be laid over the pipes and that the pipes would leak, which would result in spoiling the tar road, cannot be accepted.

7. On the aspect of public interest litigations, in one of the decisions made in WP No.3666 of 2019 between Kongu Nadu Saandror Kula Nadar Munnetra Sangam, rep. by its President Vs. State, rep. by the Chief Secretary, Fort St. George, Chennai and 3 others, dated 07.02.2019, this Court has summarised the pronouncements of the Hon'ble Supreme Court, which we deem

it fit to reproduce.

4. Of late, we can notice a growing trend in the abuse of public interest litigation. Public Interest Litigation was intended to secure the justice for poor and the weaker section of the community, who were not in a position to protect their own interests.

5. The Hon'ble Supreme Court, has time and again, observed that there is, in recent years, a feeling which is not without any foundation that public interest litigation is now tending to become publicity interest litigation or private interest litigation and has a tendency to be counterproductive. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief. {Refer **BALCO EMPLOYEES' UNION (REGD) Vs. UNION OF INDIA AND OTHERS {2002 (2) SCC - 333}**}.


6. The present writ petition cannot be said to be in public interest. This petition seems to be purely motivated by a desire to seek publicity. In fact, the Hon'ble Supreme Court, has held that by filing vexatious and frivolous petitions, the queue standing outside the doors of the Court never moves which piquant situation creates frustration in the minds of the genuine litigants and resultantly, they lose faith in the administration of judicial system.

7. A reading of instant writ petition would show that there is nothing in this petition which can be said in public interest. It does not advance any cause of the poor and down trodden. ..."

8. Further, perusal of the writ petition and the representation makes it clear that the petition is nothing but a private interest litigation and a complete abuse of process of law. In a latest decision, the Hon'ble Supreme

Court in *Tehseen Poonawalla Vs. Union of India and Another*, reported in 2018 (6) SCC 72, at paragraph Nos. 96, 97 & 98, has encapsulated the abuse of process of law by filing frivolous writ petitions.

"96. Public Interest Litigation has developed as a powerful tool to espouse the cause of the marginalised and oppressed. Indeed, that was the foundation on which public interest jurisdiction was judicially recognised in situations such as those in *Bandhua Mukti Morcha v Union of India* [1984] 3 SCC 161]. Persons who were unable to seek access to the judicial process by reason of their poverty, ignorance or illiteracy are faced with a deprivation of fundamental human rights. Bonded labour and under trials (among others) belong to that category. The hallmark of a public interest petition is that a citizen may approach the court to ventilate the grievance of a person or class of persons who are unable to pursue their rights. Public interest litigation has been entertained by relaxing the rules of standing. The essential aspect of the procedure is that the person who moves the court has no personal interest in the outcome of the proceedings apart from a general standing as a citizen before the court. This ensures the objectivity of those who pursue the grievance before the court. Environmental jurisprudence has developed around the rubric of public interest petitions. Environmental concerns affect the present generation and the future. Principles such as the polluter pays and the public trust doctrine have evolved during the adjudication of public interest petitions. Over time, public interest litigation has become a powerful instrument to preserve the rule of law and to ensure the accountability of and transparency within structures of governance. Public interest litigation is in that sense a valuable instrument and jurisdictional tool to promote structural due process.

97. Yet over time, it has been realised that this jurisdiction is capable of being and has been brazenly mis-utilised by persons with a

personal agenda. At one end of that spectrum are those cases where public interest petitions are motivated by a desire to seek publicity. At the other end of the spectrum are petitions which have been instituted at the behest of business or political rivals to settle scores behind the facade of a public interest litigation. The true face of the litigant behind the façade is seldom unravelled. These concerns are indeed reflected in the judgment of this court in *State of Uttaranchal v Balwant Singh Chaufal* [(2010) 3 SCC 402]. Underlining these concerns, this court held thus:

143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts."

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 litigation 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."

9. Apart from making a bald statement, there are no basis for the allegations. In view of the above, action of the petitioner is deprecated and the writ petition is liable to be dismissed with costs. Accordingly, instant writ petition is dismissed with costs, which we quantify at Rs.10,000/-[Rupees Ten Thousand Only], to be paid by the petitioner to the account of **Juvenile Justice Fund, Director of Social Defence, Ministry of Social Welfare, Government of Tamilnadu, Kellys, Kilpauk, Chennai-600 010**, within a period of ten days

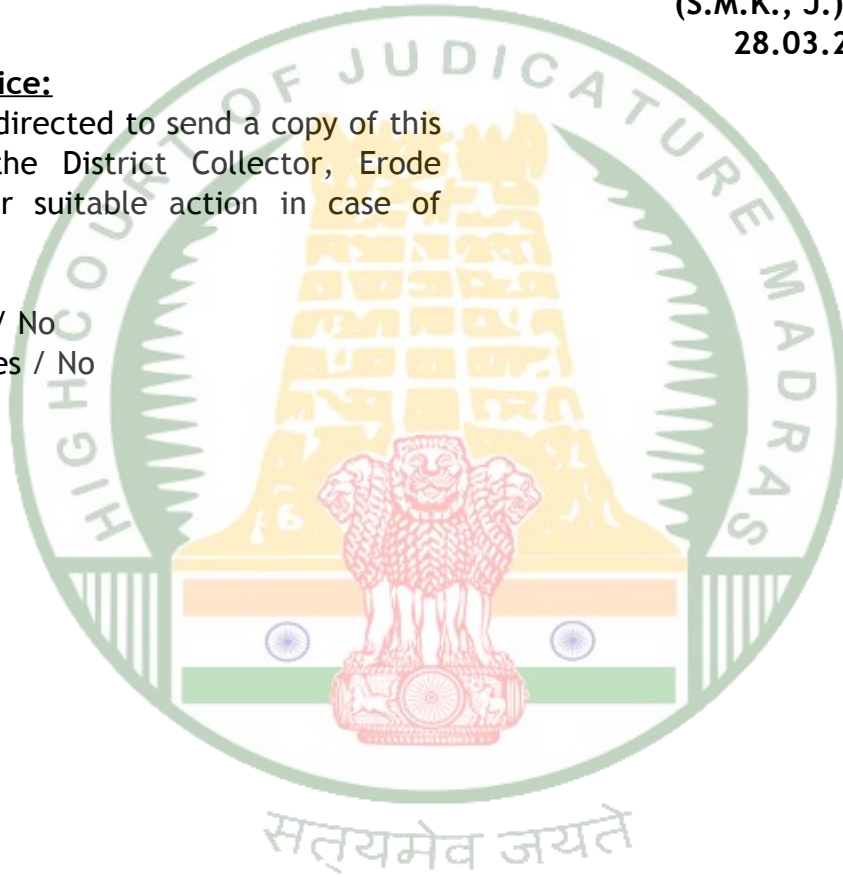
from the date of receipt of a copy of this order, failing which, the District Collector, Erode District, is directed to take action for recovery, under the Tamil Nadu Revenue Recovery Act, 1864.

(S.M.K., J.) (S.P., J.)
28.03.2019

Note to office:

Registry is directed to send a copy of this order to the District Collector, Erode District, for suitable action in case of default.

Index: Yes / No
Internet: Yes / No
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To

1. The District Collector,
Erode,
Erode District.

2. The Tahsildar,
Modakurichi Taluk,
Erode District.

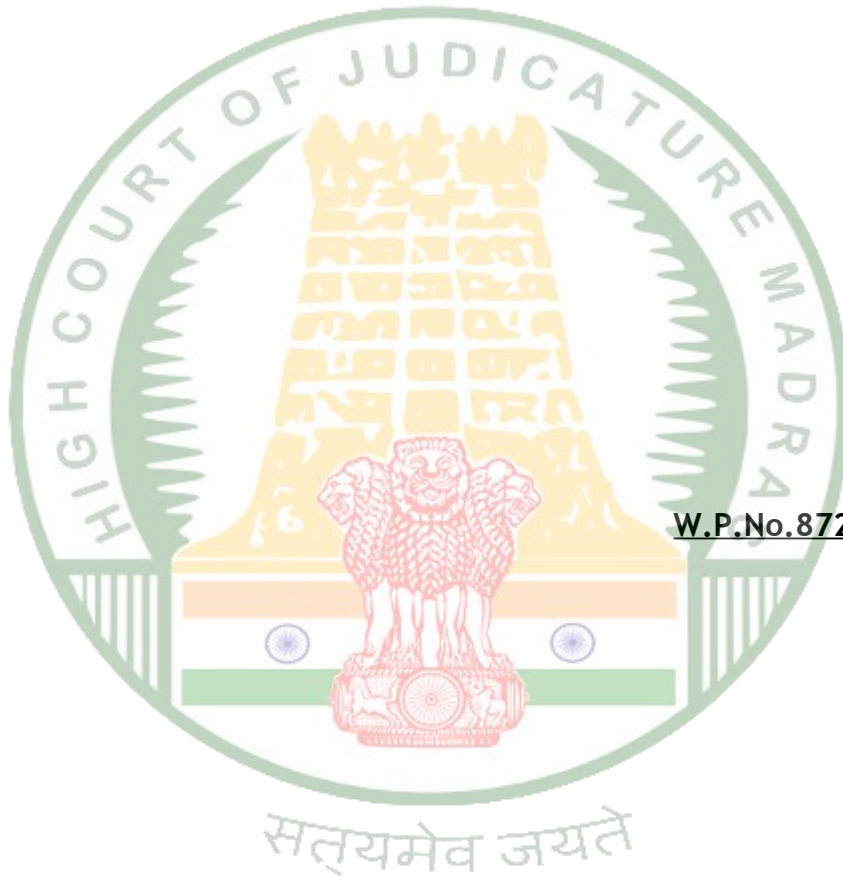
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