

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26/4/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.11418 of 2019

N. Kumarasamy ... Petitioner

Vs

1. The District Collector
Office of the District Collector
Namakkal District.
 2. The Inspector General of Registration
100 Santhome High Road
Mylapore
Chennai 600 028.
 3. The Sub-Registrar
Rasipuram
Namakkal District.
 4. The Tahsildar
Rasipuram Taluk
Namakkal District.
 5. Muthayammal Educational Trust
and Research Foundation
rep. By its Managing Trustee
Mr.K.Gunasekaran
No.5/329 A, Vinayagarkoil Street
State Bank Colony 2, Five Road
Salem District.
 6. Muthayammal Educational and
Charitable Trust
rep. By its Managing Trustee
Mr.R.Muthuvel
Door No.6 A, 5 Building Society Road
V.O.C.Nagar
Rasipuram
Namakkal District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first and second respondents to act upon the representation dated 5/3/2019 of the petitioner and to initiate action against the respondents 3 to 6 within a specified time frame.

For petitioner ... Mr.L.Rajendran

For respondents ... Mr.Akhil Akbar Ali,
Government Advocate
for R.R.1 to 4.

O R D E R

(Order of the Court was made by Subramonium Prasad,J)

Claiming himself to be a public interest litigant, petitioner has filed the instant writ petition, to direct the first and second respondents, to act upon the representation, dated 5/3/2019 of the petitioner and to initiate action against the respondents 3 to 6, for registering documents of respondents 5 and 6.

2. Petitioner is a Teacher. He states that one Muthayammal Educational Trust was administering several educational institutions, at Kakaveri Village, Rasipuram Taluk, Namakkal District. The Trust was administered by three trustees and functioning from Chennai. Somewhere in 2004, one member from the family of each of the trustees were inducted into the trust, as additional trustees and the trust deed was suitably amended. It is the contention of the petitioner that the erstwhile trustees, belonging to the family of P. Kandasamy, one of 14, viz., R.Kandasamy, K. Ammani and K.Gunasekaran, had already formed another charitable Trust, in the name of Muthayammal Educational Trust and Research Foundation. It is the contention that several properties of Muthayammal Educational Trust and Research Foundation was transferred to Muthayammal Educational Trust and Research Foundation. It is the further contention of the petitioner that certain collusive suits were filed by Muthayammal Educational and Charitable Trust and Muthayammal Educational Trust and Research Foundation, against Muthayammal Educational and Charity Trust, in O.S.Nos.10 and 11 of 2010, respectively, on the file of the Principal District Court, Namakkal District, seeking declaration of title over all the said properties resolved to be transferred to them by Muthayammal Educational Trust. It is the allegation of the petitioner that suits were not filed against Muthayammal Educational Trust but against the Trustees in their individual names. It is alleged by the petitioner that in the collusive

suit, a decree was obtained by suppression of facts and misrepresentation.

3. It is further alleged that Muthayammal Educational and Charitable Trust and Muthayammal Educational Trust and Research Foundation wanted to get their decrees registered, but the same were impounded by the Registration Department, for non-payment of stamp duty, on the ground that the said decrees amount to conveyance of properties.

4. Being aggrieved, W.P.Nos.19978 and 19979 of 2010 were filed by Muthayammal Educational and Charitable Trust and Muthayammal Educational Trust and Research Foundation, praying to quash the abovesaid order. Interim directions were also sought for.

5. It is the allegation of the petitioner that pending Writ Petition Nos.19978 and 19979 of 2010 filed by Muthayammal Educational and Charitable Trust and Muthayammal Educational Trust and Research Foundation, challenging the orders stated supra, the properties have been mortgaged by the Trust to Banks. Petitioner has stated that Muthayammal Educational Trust and Research Foundation, projecting itself as the absolute owner of the said properties, has obtained loan from Canara Bank, Alagapuram Branch, initially to the tune of Rs.28,85,00,000/-, on 1/11/2010, on the security of certain properties, by executing a Deed of simple mortgage, dated 1/11/2010, registered as, Document No.6258/2010, in S.R.O Rasipuram and subsequently, for a sum of Rs.16,40,00,000/-, from Karnataka Bank, Salem Branch, and thus, in total, for a sum of Rs.45,25,00,000/-, and the said Trust has executed a supplementary simple mortgage deed, dated 22/1/2014, in favour of Canara Bank, Alagapuram Branch and Karnataka Bank, Salem Main Branch, registered as Document No.305/2014, in the S.R.O., Rasipuram. According to the petitioner, the Bank officials, in collusion with the said Trust, have sanctioned more than 45 crores of rupees, as loan, in spite of the fact that the said Trust, has not acquired ownership over the said properties. The memorandum of deposit of title deeds, in connection with the said mortgage have been registered by the same registering authority, viz., The Sub-Registrar, Rasipuram, who had earlier impounded the 'decrees' produced by 'Muthayammal Educational and Charitable Trust' and 'Muthayammal Educational Trust and Research Foundation' for registration, on the ground of non-payment of stamp duty, and the writ petitioner has filed writ petitions filed, are pending, on the file of this Court.

6. It is stated by the petitioner that documents of mortgage have been registered by the Inspector General of Registration, even though in W.P.Nos.19978 and 19979 of 2010 that they have taken a different stand. According to the petitioner, decrees have been obtained by collusion. Case of the petitioner, in short is that, the properties do not belong to Muthayammal Educational and Charitable trust and Muthayammal Educational Trust and Research Foundation and that they have obtained a collusive decree. It is stated that the Registrar, after taking a stand in writ petition that decrees are not valid and been obtained by collusion, cannot turn around, and register the deeds.

7. Heard Mr.L.Rajendran, learned counsel for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate for the respondents 1 to 4.

8. On the facts of this case, we could deduce that a decree has been obtained by Muthayammal Educational and Charitable trust and Muthayammal Educational Trust and Research Foundation. Writ petitions have been filed by Muthayammal Educational and Charitable trust and Muthayammal Educational Trust and Research Foundation, against the orders impounding the decree. Whatever be the rival submissions of the parties to the writ petitions, pending on the file of this Court, on the facts and circumstances of this case, having regard to the scope of judicial review, on the judgment and the consequential decree, of a Civil Court, passed on evaluation of facts and evidence, except in exceptional circumstances, by exercising the jurisdiction under Article 227 of the Constitution of India, Writ Court cannot go into the question, as to whether decrees are collusive or not. That apart, the question as to whether a decree has been obtained by collusion or not, can be decided only in a instituted suit by a party, who is affected by the decree or in an appeal against the alleged collusive decree, by an affected party. Bank has advanced loans. Bank would have done proper scrutiny of title. Banks, whom granted loans have not been made parties in the present proceedings. None of the trustees have objected to execution of mortgage. Argument of the petitioner that public money is wasted, cannot be considered, for the reason that banks would have taken adequate precaution before advancing loans. It is to be mentioned that, non-inclusion of Banks in the instant writ petition, in the light of the allegations made in the writ petition is fatal, to the writ petition. On the facts and circumstances of this case, we are of the view that the banks, which lend money to the trust, are necessary and proper parties, to the lis. It is

settled law that if necessary and proper parties to a writ petition, are not impleaded, then the writ petition can be dismissed on that ground alone. That apart, material on record also indicate that the respondent Nos.5 & 6, have obtained stay of the orders impugned therein from this Court, in the writ petitions filed by them. Application for vacating the stay has been filed and is still pending before the learned Single Judge. Going through the facts and circumstances, and the orders passed by this Court, we are of the view that respondent Nos.2 & 3, cannot be said to have faulted in registering the document.

9. At this juncture, we would like to quote few decisions as to what Public Interest and Public Interest Litigation means.

(i) In S.P.Anand v. H.D.Deve Gowda, reported in 1996 (6) SCC 734, the Hon'ble Supreme Court, at Paragraph 18, held as follows:

"It is of utmost importance that those who invoke this Court's jurisdiction seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well-versed. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-errant roaming at will in pursuit of issues providing publicity. He must remember that as a person seeking to espouse a public cause, he owes it to the public as well as to the court that he does not rush to court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if petitions are filed on half-baked information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights. Lastly, it must also be borne in mind that no one has a right to the waiver of the locus standi rule and the court should permit it only when it is satisfied that the carriage of proceedings is in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the court must be careful to ensure that the process of the Court is not sought to be abused by a person who desires to persist with his point of view, almost carrying it to the point of obstinacy, by filling a series of petitions refusing to accept the Court's earlier decisions as concluding the point. We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he

brushed them aside, without so much as showing willingness to deal with them and without giving them a second look, as having become stale and irrelevant by passage of time and challenged their correctness on the specious plea that they needed reconsideration. Except for saying that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to considered decisions of this Court even by a person well-versed in law would not be countenanced. Instead, as pointed out earlier, he referred to decisions having no bearing on the question, like the decisions on cow slaughter cases, freedom of speech and expression, uniform civil code, etc., we need say no more except to point out that indiscriminate of this important lever of public interest litigation would blunt the lever itself."

(ii) In *Narmada Bachao Andolan Vs. Union of India and Others*, reported in 2000 (10) SCC - 664, the Hon'ble Supreme Court observed as follows:-

"232. While protecting the rights of the people from being violated in any manner utmost care has to be taken that the Court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The Court has come down heavily whenever the executive has sought to impinge upon the Court's jurisdiction.

233. At the same time, in exercise of its enormous power, the Court should not be called upon to or undertake governmental duties or functions. The Courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under values of the Constitution and the rights of Indians. The Courts must therefore, act within their judicially permissible limitations to uphold the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the Court will not interfere. When there is a valid law requiring the Government to act in a particular manner the Court ought not to, without striking down the law, give any direction which is not in accordance with law. In other words, the Court itself is not above the law.

234. In respect of public projects and policies which are initiated by the Government the Courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not mala fide, it will not be in public interest to require the Court to go into and investigate those areas which are the function of the executive. For any project which is approved after due deliberation, the Court should not refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may have been considered by the Government is possible. When two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the Court to go into the matter afresh and, in a way, sit in appeal over such a policy decision."

(iii) In *Balco Employees' Union (Regd.) v. Union of India* reported in 2002 (2) SCC 333, the Hon'ble Supreme Court, held that,

"Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be espoused. PIL was not meant to be adversarial in nature and was to be a cooperative and collaborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. "litigation in the interest of the public."

.....

(iv) In Guruvayoor Devaswom Managing Committee and another vs. C.K.Rajan and others, reported in 2003 (7) SCC 546, the Hon'ble Supreme Court observed as follows:

41. The courts exercising their power of judicial review found to their dismay that the poorest of the poor, the deprived (sic), the illiterate, the urban and rural unorganized labour sector, women, children, those handicapped by "ignorance, indigence and illiteracy" and other downtrodden persons have either no access to justice or had been denied justice. A new branch of proceedings known as "social action litigation" or "public interest litigation" was evolved with a view to render complete justice to the aforementioned classes of persons. It expanded its wings in course of time. The courts in pro bono publico granted relief to inmates of prisons, provided legal aid, directed speedy trials, maintenance of human dignity and covered several other areas. Representative actions, pro bono publico and test litigations were entertained in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass real issues on merits by suspect reliance on peripheral procedural shortcomings. (See Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai (1976) 3 SCC 832)

46. But with the passage of time, things started taking different shapes. The process was sometimes abused. Proceedings were initiated in the name of public interest litigation for ventilating private disputes. Some petitions were publicity-oriented.

50. The principles evolved by this Court in this behalf may be suitably summarized as under:

(i) The Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court.

The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfil its constitutional promises. (See S.P. Gupta v. Union of India [1981 Supp SCC 87] , People's Union for Democratic Rights v. Union of India [(1982) 2 SCC 494 : 1982 SCC (L&S) 262] , Bandhua Mukti Morcha v. Union of India [AIR 1963 SC 1638 : (1964) 1 SCR 561] and Janata Dal v. H.S.

Chowdhary [(1992) 4 SCC 305 : 1993 SCC (Cri) 36] .)

(ii) Issues of public importance, enforcement of fundamental rights of a large number of the public vis-à-vis the constitutional duties and functions of the State, if raised, the Court treats a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings. (See Charles Sobraj v. Supdt., Central Jail [(1978) 4 SCC 104 : 1978 SCC (Cri) 542] and Hussainara Khatoon (I) v. Home Secy., State of Bihar [(1980) 1 SCC 81 : 1980 SCC (Cri) 23] .)

(iii) Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in. Articles 14 and 21 of the Constitution of India as well as the International Conventions on Human Rights provide for reasonable and fair trial.

In Maneka Sanjay Gandhi v. Rani Jethmalani [(1979) 4 SCC 167 : 1979 SCC (Cri) 934 : AIR 1979 SC 468] it was held: (SCC p. 169, para 2)

"2. Assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or easy availability of legal services or like mini-grievances. Something more substantial, more compelling, more imperilling, from the point of view of public justice and its attendant environment, is necessitous if the court is to exercise its power of transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case. We have to test the petitioner's grounds on this touchstone bearing in mind the rule that normally the complainant has the right to choose any court having jurisdiction and the accused cannot dictate where the case against him should be tried. Even so, the process of justice should not harass the parties and from that angle the court may weigh the circumstances."

(See also Dwarka Prasad Agarwal v. B.D. Agarwal [(2003) 6 SCC 230 : (2003) 5 Scale 138] .)

(iv) The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the depraved (sic), the illiterate and the disabled who cannot vindicate the legal wrong or legal

injury caused to them for any violation of any constitutional or legal right. [See Fertilizer Corpn. Kamgar Union (Regd.) v. Union of India [(1981) 1 SCC 568 : AIR 1981 SC 344] , S.P. Gupta [1981 Supp SCC 87] , People's Union for Democratic Rights [(1982) 2 SCC 494 : 1982 SCC (L&S) 262] , D.C. Wadhwa (Dr) v. State of Bihar [(1987) 1 SCC 378] and

BALCO Employees' Union (Regd.) v. Union of India [(2002) 2 SCC 333] .]

(v) When the Court is prima facie satisfied about variation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Government from raising the question as to the maintainability of the petition. (See Bandhua Mukti Morcha [(1984) 3 SCC 161 : 1984 SCC (L&S) 389 : (1984) 2 SCR 67] .)

(vi) Although procedural laws apply to PIL cases but the question as to whether the principles of res judicata or principles analogous thereto would apply depends on the nature of the petition as also facts and circumstances of the case. [See Rural Litigation and Entitlement Kendra v. State of U.P. [1989 Supp (1) SCC 504] and Forward Construction Co. v. Prabhat Mandal (Regd.) [(1986) 1 SCC 100]

(vii) The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation. (See Ramsharan Autyanuprasi v. Union of India [1989 Supp (1) SCC 251] .)

(viii) However, in an appropriate case, although the petitioner might have moved a court in his private interest and for redressal of personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice. (See Shivajirao Nilangekar Patil v. Dr Mahesh Madhav Gosavi [(1987) 1 SCC 227] .)

(ix) The Court in special situations may appoint a Commission, or other bodies for the purpose of investigating into the allegations and finding out facts. It may also direct management of a public institution taken over by such Committee. (See Bandhua Mukti Morcha [(1984) 3 SCC 161 : 1984 SCC (L&S) 389 : (1984) 2 SCR 67] , Rakesh Chandra Narayan v. State of Bihar [1989

Supp (1) SCC 644] and A.P. Pollution Control Board v. Prof. M.V. Nayudu [(1999) 2 SCC 718]) In Sachidanand Pandey v. State of W.B. [(1987) 2 SCC 295] this Court held: (SCC pp. 334-35, para 61)

"61. It is only when courts are apprised of gross violation of fundamental rights by a group or a class action on when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the courts, especially this Court, should leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants."

In Janata Dal v. H.S. Chowdhary [(1992) 4 SCC 305 : 1993 SCC (Cri) 36] this Court opined: (SCC p. 348, para 109) "109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold." The Court will not ordinarily transgress into a policy. It shall also take utmost care not to transgress its jurisdiction while purporting to protect the rights of the people from being violated.

(v) In Dattaraj Nathuji Thaware Vs. State of Maharashtra, 2005 (1) SCC 590, the Hon'ble Supreme Court observed as follows:

"12..... The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not be publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or member of the public, who approaches

the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique considerations. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

(vi) In *Gurpal Singh v. State of Punjab* reported in 2005 (5) SCC 136, the Hon'ble Supreme Court, while considering the scope of a petition styled as a public interest litigation, held as follows:

"5. The scope of entertaining a petition styled as a public interest litigation, locus standi of the petitioner particularly in matters involving service of an employee has been examined by this court in various cases. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect.

6.

7. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, High Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors.* (AIR 1999 SC 114), this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.

8.

9. It is depressing to note that on account of such trumped up proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievance go

unnoticed, un-represented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to loose but trying to gain for nothing and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants.

10. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal

gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

(vii) In State of Uttranchal Vs. Balwant Singh Chauhan, reported in (2010) 3 SCC 402, the Hon'ble Supreme court has held as follows:

(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal

of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.

(viii) In *Tehseen Poonawalla v. Union of India* reported in 2018 (6) SCC 72, the Hon'ble Supreme Court, at Paragraphs 96 to 98, held as follows:

"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* [*Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 : 1984 SCC (L&S) 389]. 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 undertrials (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 misutilised 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* [*State of Uttaranchal v. Balwant Singh Chaufal*, (2010) 3 SCC 402 : (2010) 2 SCC (Cri) 81 : (2010) 1 SCC (L&S) 807] . Underlining these concerns, this Court held thus: (SCC p. 453, para 143)

"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 litigations 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."

10. Giving due consideration to what a public interest litigation, is who should be the necessary parties to the lis, omission of the petitioner, to implead necessary and proper parties to the instant writ petition, we record that on perusal of the facts of this case, as stated above, gives an impression that, the present petition though styled as public interest litigation, is only a camouflage. Pendency of writ petitions can never be a bar, to register mortgage deeds from the Trust, in favour of Banks. There is no public interest in this case. In the light of the decisions, we are bound to consider, it cannot be said that the petitioner has filed the case, on behalf of the poor and downtrodden of espousing rivalry of the parties to a suit, whose interests are affected by the registration of documents. While recording our disapproval, in filing the instant writ petition styled as public interest litigation, in view of the pending of W.P.Nos.19978 and 19979 of 2010, we are refraining from imposing costs on the petitioner for wasting valuable judicial time.

11. In the light of the discussion and decisions cited supra, instant writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mvs/pkn.

To

1. The District Collector
Office of the District Collector
Namakkal District.
2. The Inspector General of Registration
100 Santhome High Road
Mylapore
Chennai 600 028.
3. The Sub-Registrar
Rasipuram
Namakkal District.
4. The Tahsildar
Rasipuram Taluk
Namakkal District.

+1cc to the Government Pleader SR.40901

Writ Petition No.11418 of 2019

vgi[col]
srg 8/5/2019