

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 27.02.2019
C O R A M
THE HON'BLE Mr.JUSTICE S.MANIKUMAR
AND
THE HON'BLE Mr.JUSTICE SUBRAMONIUM PRASAD
W.P.No.31352 of 2018

Rajasekhar

... Petitioner

Vs

1. The District Collector
Kancheepuram District
Kancheepuram.
2. The Revenue Divisional Officer
Tambaram
Chennai - 600 045.
3. The Tahsildar
Pallavaram Taluk
Kancheepuram District.
4. The Block Development Officer
St.Thomas Mount
Chitlapakkam
Chennai - 600 064.
5. The Managing Director
Chennai Metro Rail Limited
Harini Towers
No.7, Conran Smith Road
Gopalapuram
Chennai - 600 085.

... Respondents

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to prevent the dumping of waste materials dust and and clay and other garbage in Mangalagiri Malai water body situated at Survey No.234/2, Thiruneermalai Village, Alandur Taluk, Kancheepuram District by anybody

For Petitioner : Mr.T.Ravidevan
for Mr.M.Soundararajan

For Respondents : Mr.Akhil Akbar Ali
Government Advocate [R1 to R3]
Mr.Jayesh B.Dolia [R5]

O R D E R

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

This instant Public Interest Litigation has been for a writ of mandamus directing the respondents not to dump waste materials, dust, clay and other garbage into Mangalagiri Malai water body situated at Survey No.234/2 of Thiruneermalai Village, Alandur Taluk, Kancheepuram District.

2. The principal allegation is that Mangalagiri Malai, a water body is being polluted by dumping of waste materials by the fifth respondent.

3. According to the petitioner, Mangalagiri Malai water body is situated in the Survey No.234/2 of Thiruneermalai Village, Alandur Taluk, Kancheepuram District. The petitioner states that it serves as a source for providing drinking water to the residents of said village and also for irrigating their lands. It is stated that the land which originally a quarry site, no quarrying takes place now and the cavity that has been created due to mining, has been filled up by rain water. It is stated that this water is suitable for drinking and agricultural purposes.

4. The specific contention raised by the petitioner is that the waste materials are being dumped by the fifth respondent, Chennai Metro Rail Limited into the water body and this restricts the out flow of water to nearby fields and that apart, dumping of waste materials by the fifth respondent is causing environmental pollution affecting the flora and fauna in the area. It is also contended that dumping of waste materials will result in poisoning the water body. It is stated that the ground water is also getting contaminated. It is also stated that bad and foul odour is emanating from the area. A complaint in this regard was made before the fifth respondent by the petitioner. Since no response is forthcoming, the petitioner is before this Court by filing the instant writ petition.

5. Heard Mr.T.Ravidevan, learned counsel for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate for the respondents 1 to 3 and Mr.Jayesh.B.Dolia, learned counsel for the fifth respondent.

6. The learned counsel for the petitioner has reiterated the averments made in the writ petition. The learned counsel for Chennai Metro Rail Limited and the State would contend that rain water is stagnated in the abandoned quarry in Survey No.234/2 of Thiruneermalai Village, Alandur Taluk, Kancheepuram District and this stagnant rain water is not a water body. It is also stated that the stagnated water is not being used either for drinking or for any other purposes by the people of the said locality.

7. Other than filing a representation and issuing legal notices dated 20.06.2018 and 04.07.2018, the petitioner has not filed any material to substantiate that the subject land in question, situated in Survey No.234/2 of Thiruneermalai Village, Alandur Taluk, Kancheepuram District, is a water body. In fact the FMB sketch filed by the petitioner also does not reflect that the said Survey Number is a water body.

8. The Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 has been enacted to provide the measures for checking encroachment and eviction of encroachment in tanks. Tanks are defined under Section 2 (1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, which reads as under :

'tank' means a storage structure built in for harnessing water for use and includes supply channel and its cross masonries, tank sluice, surplus weir, surplus weir, surplus course and its cross masonries; field channel and its cross masonries besides the drains and tank poramboke lands which are under the control and management of Public Works Department;

Stagnated water in an abandoned quarry cannot any stretch of imagination be called as a water body.

9. No material has been supplied by the petitioner to substantiate his claim that the water which has been collected in the abandoned quarry is being used for the purpose of irrigation or as drinking water. In the absence of any material, this writ petition cannot be sustained.

The High Court of Madras has framed Rules regarding averments and materials which are required to be furnished while filing a Public Interest Litigation petition vide its Roc.No.670-A/2010/F-1. The Rules are as hereunder :

JUDICIAL NOTIFICATION

Rules to Regulate the Public Interest Litigations
filed under Art.226 of the Constitution of India
(Roc.No.670-A/2010/F-1)

No. SRO C-2/2010

By virtue of Article 225 of the Constitution of India and of all other powers hereunto enabling the High Court makes the following Rules to regulate Public Interest Litigation (PIL) filed under Article 226 of the Constitution of India.

Every Public Interest Litigation must be filed in accordance with the following rules:-

1. Every PIL must indicate that the petitioner has no personal interest in the case. If he has any personal interest, he must disclose the same. In the event of the High Court finding the claim as frivolous or vexatious, the PIL shall be dismissed with exemplary cost.
2. If the PIL is filed on behalf of a class of persons, the details of the persons for whose benefit the PIL is filed, must be indicated. If it is a society or association of persons, the writ petitioner must enclose a resolution from such society or association of persons, authorising the petitioner to file the writ petition and if the body is duly registered with competent authority, a copy of the bye-laws of the said body authorising the petitioner to file the writ petition, shall be enclosed.
3. If the petitioner has filed any PIL earlier, the details of the petition, and the final order, if any, passed in that petition, the relief granted and costs, if any, awarded, shall be indicated. No Public Interest litigation Petition will be entertained in respect of civil disputes between individuals or in service matters. The petitioner shall give an undertaking that he will pay the costs, if any, if it is found to be intended for personal gain or oblique motive.

4. The petitioner must disclose his avocation, annual income and other particulars as to whether he is an Income Tax Assessee or not? If he is an Assessee, he must furnish the PAN number. The petitioner must also disclose whether he has filed the petition out of his own funds or from other sources. It is the latter, the particulars should be given. (Rule 4 amended as per R.O.C.No.4452-A/2014/F-1, Dt.06.01.2015 - No.SRO C-7/2015 - AMENDMENT).

4(a) - The petitioner shall file a photocopy of a document having petitioner's proof of identity in the form of Passport, PAN Card, Driving Licence, Aadhar Card, Photo affixed Ration Card/Family Card, Photo Identity Card issued by the employer in case of an Officer/Employee of the Government, Government Company, Government Undertaking, Statutory Authority, Public Company Limited by Shares, Employees of High Court and other Courts. A photocopy of one such document duly attested by the Officer of the Court shall be filed along with the Writ Petition. (As per R.O.C.No.5332-A/2018/F-1, Dt.20.07.2018 - No.SRO C-20/2018 - AMENDMENT)

5. The petitioner must state in the affidavit that to his knowledge, no PIL arising on the same issue, has been filed anywhere.

6. The affidavit filed by the petitioner must contain the averments that he has filed the writ petition based on his information and his personal knowledge. If he has filed the writ petition based on an information received from any other source, he must clearly indicate the source. If it is a newspaper report, the affidavit shall clearly state as to whether the deponent has verified the facts by personally visiting the place or talking to any responsible person or Reporter or Editor of the newspaper concerned.

7. If the petitioner has given any representation to any authority, a copy of the same shall be filed in the typed set of papers along with reply, if any, received from the authority. He shall file the proof of service of representation before the Court.

The petitioner has not satisfied the conditions laid down in the notification extracted supra. The writ petition is

only an abuse of the process of law which has resulted in waste of precious judicial time.

10. Though the instant writ petition deserves to be dismissed with costs, we refrain from doing so, hoping that the petitioner will not indulge in filing such frivolous petitions in future. In the result, the instant writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

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To :

1. The District Collector
Kancheepuram District
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2. The Revenue Divisional Officer
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Chennai - 600 045.
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- 5.The Managing Director
Chennai Metro Rail Limited
Harini Towers
No.7, Conran Smith Road
Gopalapuram,Chennai - 600 085.

+1 cc to Government Pleader SR.NO. 19316

+1cc to Mr.M.Soundararajan , Advocate SR.No. 19263

+1cc to Mr.Jayesh B.Dolia, Advocate SR.No. 18693

W.P.No.31352 of 2018

A.SK(12/04/2019)