

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

PUBLIC INTEREST LITIGATION NO. 86 OF 2019

Anil @ Sanjay Sharad Walhe	... Petitioner
Versus	
The State of Maharashtra and others	... Respondents

**WITH
CIVIL APPLICATION NO. 11507 OF 2019**

Dr Suprabha Ashok Aamle	... Applicant
Versus	
Anil @ Sanjay Sharad Walhe and others	... Respondents

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Mr. Amit Savale, Advocate for petitioner
 Mr. D. R. Kale, Government Pleader for the State
 Mr. A. S. Sawant, Advocate for respondent No.3
 Mr. D. S. Bagul, Advocate for respondent No.6
 Mr. Chaitanya Deshpande, Advocate for respondent Nos. 7 to 10 and 13
 Mr. Rahul R. Karpe, Advocate for applicant in Civil Application
 No.11507/2019

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**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

DATED : 18th FEBRUARY, 2020

PER COURT :-

. Heard.

2. Civil Application No.11507 of 2019 was posted before this Court on 26.09.2019. The applicant, who is a medical practitioner, filed the

civil application with the contentions that the applicant had purchased plot No.22 by way of registered sale-deed on 29.10.2018, as per the layout plan dated 24.11.1967. Huge amount is invested in the said plot by the applicant and the applicant is willing to construct a hospital upon the land. It is submitted that as per the procedure, the applicant submitted online application to respondent No.3 i.e. Dhule Municipal Corporation, Dhule for grant of construction permission, along with the relevant documents. Thereafter, it came to the knowledge of the applicant that as there is an interim order passed by this Court in Public Interest Litigation No.86/2019, the Corporation is unable to pass any order on the application filed by the applicant. It is also submitted before this Court that the interim order passed by this Court relates to the open space provided under the erstwhile development plan. But the applicant has no concern with the piece of land, which is the subject matter of Public Interest Litigation. As such, the applicant, by way of present Civil Application No.11507/2019, sought for directions to Dhule Municipal Corporation to grant construction permission in favour of the applicant.

3. While hearing the parties, certain facts are brought to the notice of this Court by learned counsel Mr. Bagul appearing for respondent No.6. Mr. Bagul, learned counsel submitted that, initially, the Writ

Petition No.6835/2018) was filed on behalf of Mr. Anil @ Sanjay Sharad Walhe. By order dated 01.04.2019, on a preliminary opinion being formed by the Division Bench of this Court that the petition appears to be the Public Interest Litigation (PIL). Therefore, the petitioner was permitted to take appropriate steps to get the petition registered as PIL. Two weeks time was granted to take necessary steps.

On perusal of the order sheets, it appears that Civil Application No.6623/2019 was filed and the Division Bench of this Court by order dated 14.06.2019 disposed of the said civil application with observations that in view of order dated 01.04.2019 passed in Writ Petition No.6835/2018, there is no need to pass any separate order in the civil application. Then, another Civil Application No.3214/2019 came up before this Court seeking amendment in the petition. Considering the reasons stated in the application the Division Bench of this Court to which one of us (Prasanna B. Varale, J.) was a party, allowed the civil application and disposed of the same by permitting the applicant/petitioner to carry out the amendment and take appropriate steps within stipulated period.

4. When Civil Application No.11507/2019 came up before this Court, learned counsel Mr. Bagul vehemently submitted that, initially,

the writ petition was filed through Shri Anil @ Sanjay Sharad Walhe. The petitioner - Anil @ Sanjay Sharad Walhe was permitted to take appropriate steps for conversion of Writ Petition No.6835/2018 into Public Interest Litigation and suddenly one Mr. Sandip Suresh Chavan appears on the scene as petitioner, filing the Public Interest Litigation. It is also stated before this Court that the petitioner Mr. Sandip Suresh Chavan has provided his mobile number, details of his income and he has filed affidavit with verification clause giving the other details, satisfying the criteria, so as to provide other details which are required as per the rules, so as to treat the petition as Public Interest Litigation.

Finding these facts and merits in the submission of Mr. Bagul that a person who was not party to the writ petition, suddenly appears on the scene as petitioner in Public Interest Litigation. Learned counsel for the petitioner was directed to file appropriate affidavit. Mr. Savale, learned counsel has filed his personal affidavit. Though the learned counsel for petitioner gives his explanation in the affidavit, more particularly in paragraphs 2, 3 and 4, there is hardly anything on record showing what prompted Mr. Sandip Suresh Chavan to enter on the scene when he was not party in the original Writ Petition and when it was also apprised by the learned counsel that the course chosen by another person to enter on the scene is impermissible in law. It seems

that it is the inconsistency of Mr. Sandip Suresh Chavan to enter on the scene by one way or the other in spite of the reservation being expressed by the learned counsel. We could not find any clarification, justification, explanation or even remorse expressed by Mr. Chavan to his counsel which could have been a part of the affidavit of Mr. Savale, learned counsel and failure to provide any explanation, clarification, justification by Mr. Sandip Suresh Chavan to his own counsel only led us to state that the petitioner Mr. Sandip Suresh Chavan is not coming before this Court with clean hands.

5. All these facts referred above by us is the sequence of events showing an unhappy state of affairs. It is not in dispute that Public Interest Litigation is a tool provided for raising a cause of general public and works as an additional measure in our traditional justice delivery system. At the same time, the judicial decisions pronounced by the Hon'ble Apex Court as well as this Court, provide us caution and warning that this tool must not be used to achieve an object of settling personal core and pressurizing tactics by the parties.

6. We are recording these observations in peculiar backdrop and that is the submission of Mr. Bagul, learned counsel appearing for respondent No.6. It is submitted by Mr. Bagul, learned counsel that one

of the nearest relative of Mr. Sandip Suresh Chavan had filed parallel proceeding in the Civil Court at Dhule. In support of all these submissions Mr. Bagul, learned counsel invited our attention to the documents placed on record which are annexed to the affidavit-in-reply filed on behalf of respondent No.6 at Exhibit-“R-1”. It seems that Mr. Sandip Suresh Chavan who entered on the scene with some purpose and motive. Entry of Mr. Sandip Suresh Chavan is not an accidental one or an act of inadvertence as tried to be suggested, and on this reason only this Public Interest Litigation fails to convince us to entertain the same.

7. Needless to state that when the so called Public Interest Litigation loses its character of espousing the cause of public and is filed by an interested party, there is absolutely no reason for this Court to entertain such a petition which is filed under the guise and garb of a Public Interest Litigation. Resultantly, the Public Interest Litigation, thus being thoroughly meritless, the only conclusion can be drawn is of dismissal of the Public Interest Litigation and accordingly, the Public Interest Litigation is dismissed. Needless to state that the interim order passed by this Court on 29.06.2018 stands vacated. Further needless to state that in view of vacation of the interim order, the Municipal Corporation, Dhule, is at liberty to take appropriate steps in the matter

as provided under the law. In view of dismissal of the Public Interest Litigation, no orders are required to be passed in pending civil application. Accordingly, pending civil application, also disposed of.

[R. G. AVACHAT, J.]

[PRASANNA B. VARALE, J.]

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