



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.15206 of 2022

V.Prabhu

.. Petitioner

Vs

- 1 The Revenue Secretary
Department of Revenue
Fort St.George
Chennai-600 009.
- 2 The District Collector
Chennai District
Singaravelu Maligai
Chennai-600 001.
- 3 The Commissioner
Corporation of Greater Chennai
Ribbon Building
Chennai-600 003.
- 4 The Commissioner of Land Administration
Ezhilagam, Chennai-600 005.
- 5 The Tahsildar
Sholinganallur Taluk
Chennai-600 119.
- 6 T.R.Sahadevan

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing respondents 1 to 5 to remove the illegal encroachment and constructions of buildings in Survey No.658 of Pallikaranai Village, Sholinganallur Taluk by the 6th respondent herein.



WEB COPY

For the Petitioner : Mr.V.Jayaprakash

For the Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by
Mr.A.Selvendran
Special Government Pleader
for respondents 1, 2, 4 and 5

: Mrs.Karthika Ashok
Standing Counsel
for 3rd respondent

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The writ petition has been filed to seek a direction on respondents 1 to 5 to remove the illegal encroachment and construction of building in Survey No.658 of Pallikaranai Village, Sholinganallur Taluk.

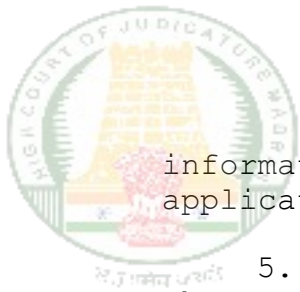
2. Learned counsel for the petitioner submits that even after making a representation, the respondents failed to take action in the matter and allowed the private respondent to continue the construction of the building. A reference was made to the application dated 14.10.2021 calling for a copy of the survey report pursuant to the order of the court. The relevant paragraph of the same is quoted hereunder:

"As per the order of the Court the Tahsildar of Velachery and Tahsildar of Sholinganallur have surveyed the land above jointly.

It is requested under the Right to Information Act 2005 to give the copy of the Authenticity report of the land survey done at the time of submitting to the Court."

3. This court asked learned counsel for the petitioner to refer to the document, where the order of court exists. It was stated that there exists no order of the court and thereby the statement of fact given in the representation in reference to the court's order became false.

4. The petitioner then referred to another representation dated 13.4.2022, alleging no action was taken by the respondent authorities even pursuant to it. We have gone through the a



information was given to the petitioner pursuant to the application under the Right to Information Act, 2005.

5. A casual statement cannot be made before the court. In the present case, we find the averments so as the submissions made by learned counsel for the petitioner contrary to record. It is borne out of records that while dealing with the application under the Right to Information Act, 2005, the information was conveyed to the petitioner vide letter dated 19.1.2022 of the Public Information Officer, Executive Engineer, Zone XIII, Greater Chennai Corporation. It was regarding the planning permission obtained by the private respondent for putting up construction. Therefore, we find all through misleading statements in the petition as well as the submissions made before us.

6. At this stage, learned counsel for the petitioner submits that a Court Commissioner be appointed to find out whether the construction has been raised on a patta land after getting approval. The prayer aforesaid is nothing but to endorse a fishing enquiry into the matter by the court, whereas it is settled law that public interest litigation should be filed after proper research and not for conducting a fishing and roving enquiry by the court.

7. At this juncture, it is appropriate to refer to the following observation made by the Apex Court in State of M.P. Vs. Narmada Bachao Andolan, (2011) 7 SCC 639:

"13. Strict rules of pleading may not apply in PIL, however, there must be sufficient material in the petition on the basis of which the court may proceed. The PIL litigant has to lay a factual foundation for his averments on the basis of which such a person claims the reliefs. The information furnished by him should not be vague and indefinite. Proper pleadings are necessary to meet the requirements of the principles of natural justice. Even in PIL, the litigant cannot approach the court to have a fishing or roving enquiry. He cannot claim to have a chance to establish his claim. However, the technicalities of the rules of pleading cannot be made applicable vigorously. Pleadings prepared by a layman must be construed generously as he lacks the standard of accuracy and precision particularly when a legal wrong is caused to a determinate class."

8. In this case, the petitioner has not come with a case that the construction has been raised on a government land by way of encroachment, rather for that he wants the Court



Commissioner to be appointed. The statement of facts and the submissions are otherwise contrary to record.

9. Public interest litigation is an extremely important jurisdiction exercised by the Supreme Court and the High Courts. The Apex Court in *Neetu v. State of Punjab*, (2007) 1 SCC 614, held that when a particular person is the object and target of a petition styled as public interest litigation, the Court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other mala fide object.

10. That apart, in *Ashok Kumar Pandey v. State of West Bengal*, (2004) 3 SCC 349, the Apex Court held that 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. The courts 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. Petitions of such persons deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

11. The case on hand, which is styled as public interest petition, is clearly an abuse of the process of court for the reasons stated herein above.

12. For the reasons given above, the writ petition is dismissed with costs assessed at Rs.15,000/- to be deposited by the petitioner with the Tamil Nadu State Legal Services Authority within fifteen days from today.

The Registrar (Judicial) would ensure the compliance of the said direction and if it is not made, the disposed of writ petition may be listed before the Court for appropriate order for compliance.

Sd/-

Assistant Registrar(CS IV)

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To:

- 1 The Revenue Secretary
Department of Revenue
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- 2 The District Collector
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- 5 The Tahsildar
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Copy to:

1. The Tamil Nadu State Legal Services Authority,
Chennai.
- 2.The Registrar (Judicial),
High Court,Madras.
3. The Assistant Registrar,
Writ Section,
High Court,Madras.

+1 cc to Mr.V.Jayaprakash, Advocate Sr.NO.37369
+1 cc to Mrs.Karthika Ashok, Advocate Sr.NO.37379
+1 cc to Government Pleader Sr.NO. 37438,37712

W.P.No.15206 of 2022

br(CO)

A.SK(30/06/2022)