

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

**WRIT PETITIONS No. 25650, 29255, 36476 of 2021, 12593 AND
37689 OF 2022**

COMMON ORDER:

All these Writ Petitions are filed by the same petitioners seeking several reliefs. Hence, all these Writ Petitions are disposed of by a common order.

W.P.No. 25650 of 2021:

This Writ Petition is filed seeking the following relief:

“ to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the Respondent No.2 allowing construction of compound wall over the existing public road in Sy.No. 708 of Nadergul Village, Balapur Mandal, Ranga Reddy District by the respondent No. 4 and 5 though shown Western side as road in their sale deed bearing No. 1345/06, dt. 30.01.2006 and not stopping the ongoing work carrying by the respondent No. 4 & 5 without considering the representation dated 07.10.2021 submitted by the petitioner No.1 herein to the respondent No.2 herein, as illegal, arbitrary and violation of Articles of Constitution of India and consequently, direct the respondent No.2 to stop the ongoing compound wall over the existing public road at Sy.No. 708 of Nadergul Village, Balapur Mandal, Ranga Reddy District work by the respondent No. 4 & 5 and pass such other order or orders in the interest of justice.”

2. Sri Chindam Anjaneyulu, learned counsel for the petitioners submits that the petitioners belong to Nadergul Village by birth and they are doing agriculture over Sy.Nos. 612,

613, 707 and they are pattadars and absolute possessors. There is an existing 25 feet wide public road towards Lord Shiva Temple and the said road is the only way to enter the petitioners land for their day to day agricultural work and to go to temple for deepa, dhoopa and naivedya. Learned counsel submits that the 4th respondent has purchased agricultural lands about Acs.66.09 from different farmers in Survey Nos. 706 to 710 of Nadergul Village. The 4th respondent is converting his land into non-agricultural purpose through his representative i.e. the 5th respondent for which he is constructing a compound wall by encroaching public road in Survey No. 708 which blocks the way to enter into the petitioners' agricultural land in Survey Nos. 612, 613 and 707. Learned counsel submits that the petitioners gave a complaint to Respondents 2 and 3 *on line* on 06.10.2021 and 07.10.2021. When the petitioners approached the police with written complaint, they were advised to approach the Court as the matter is purely civil in nature. Having no other go, the petitioners approached the vacation Court by seeking urgent interim orders to stop the construction of illegal compound wall over the existing public road. It is submitted that the official respondents are allowing the illegal construction of compound wall over the public road which is bad.

3. When the matter came up on 11.10.2021, this Court passed interim order directing the 2nd respondent to conduct necessary enquiry with regard to the existence of the alleged 25 feet public road leading to the lands of the petitioners and the temple and submit a report before this Court within a period of three weeks from that day.

W.P.No. 29255 of 2021

4. This Writ petition is filed seeking the following relief:

“ to issue a writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the respondents more particularly Respondent No.2 to 4 allowing construction of compound wall by encroaching the public two ponds Parengidam Kuntta, Marribavi Kuntta at Nadergul Village, Balapur Mandal, Ranga Reddy District and not stopping the ongoing work carrying by the respondent No. 10 & 11 without considering the representation dated 11.11.2021 submitted by the writ petitioners herein to the respondent No.2 and other respondents as illegal, arbitrary and violation of Articles of Constitution of India and consequently, direct the respondents to stop the ongoing compound wall work around two ponds Parengidam Kuntta, Marribavi Kuntta of Nadergul Village, Balapur Mandal, Ranga Reddy District by the respondent No. 10 & 11 and pass such other order or orders in the interest of justice.”

5. Sri Chindam Anjaneyulu, learned counsel for the petitioners submits that the petitioners are permanently and by birth residing at Nadergul Village and belong to different communities and eking out their livelihood by doing agriculture.

It is submitted that the 10th respondent herein who is a real-estate man purchased agricultural land of about Acs.66.09 guntas from different farmers in Survey Nos. 706 to 721 of Nadergul Village and now he is converting the land into non-agricultural purpose. In this process, the 10th respondent has constructed a compound wall by encroaching the public road in Survey No. 708. It is submitted that the unofficial respondents are constructing a compound wall by encroaching a public road. Though representations were given, the same were not considered. Learned counsel submits that Respondents 10 and 11 colluded with some of the official respondents and illegally filled Parengidam Kunta and Marribavi with stones and waste disposal for their convenience, due to which both the ponds are overflowed and the overflowed water went into lake, due to heavy water load the canal broken, consequently, the overflow of heavy water drown Acs.100 of paddy and now more than 60 families are facing the problem. It is submitted that the official respondents, who are bound to take action on the unofficial respondents have failed to take any action

6. When the matter came up for admission on 04.01.2022, this Court had passed an interim order directing the respondents to take steps to see that the ponds were not

filled up by the unofficial respondents 10 and 11 and Respondents 10 and 11 are directed to refrain from carrying on any activity near the ponds.

W.P.No. 36476 of 2021:

7. This Writ Petition is filed seeking the following relief:

“ to issue an appropriate writ, particularly Respondent Nos. 3 to 5 allowing mines blasting without taking safety measures to the General public and their houses, crops and animals by the Respondent Nos. 7 and 8 without having permissions from the concern Government authorities commencing work at Sy.No. 706 to 710 of Nadergul Village, Balapur Mandal, Ranga Reddy District and not stopping the ongoing work carrying by the respondent No. 7 & 8 without considering the representation dated 13.12.2021 submitted by the writ petitioners herein to the respondents through registered post with acknowledgment by receiving the same, as illegal, arbitrary and violation of Articles of Constitution of India and consequently direct the respondents to stop the ongoing mines blasting at Sy.No. 706 to 710 of Nadergul Village, Balapur Mandal, Ranga Reddy District and pass such other order or orders in the interest of justice.”

8. Learned counsel for the petitioners Sri Ch. Anjeyulu submits that the petitioners are permanently and by birth residing at Nadergul Village and belong to different communities and having agricultural lands in Survey Nos. 612, 613, 640, 641, 642, 706 to 710 and all are depending on agricultural produce and eking out their livelihood. In this Writ Petition also, it is stated about purchasing the land of Acs.66.09 guntas from

different Survey Nos. 706 to 710 and that Respondents 7 and 8 are converting the land from agriculture to non-agricultural purpose by encroaching the public road and two ponds and as such, they have filed two writ petitions and there was an order of *status quo*. It is submitted that now Respondents 7 and 8 colluded with the government authorities and started blasting operations in Survey Nos. 706 to 710 without obtaining any permission for the land development, to construct villas and due to continuous blasting, the petitioners are facing several problems including environmental degradation, damage to the growing paddy crop. The unofficial respondents have not taken any safety and health measures while doing blasting of stones. Then the petitioners have made a representation to the official respondents on 13.12.2021 through registered post with acknowledgment due, however, the respondents concerned did not stop the ongoing illegal blasting of mines and the work is going on day and night without following safety and health measures. It is submitted that the hills under blasting are the national income and while blasting, Respondents 7 and 8 have to take permission from the State and Central Government authorities, now they are converting them into commercial purpose without permission from HMDA and the same is illegal

and against the law. Hence, the petitioners have come before this Court.

9. No interim orders are passed in this Writ Petition when the matter came up for admission. Thereafter, I.A.No. 1 of 2022 is filed to implead the 9th respondent i.e. Chairman, Telangana State Pollution Control Board as party respondent and the said I.A. was ordered.

10. In this, a counter-affidavit has been filed by the 8th respondent. Sri N. Naveen Kumar, learned counsel submits that the writ petitioners with a sole intention to interfere with the legitimate rights of the owner of the subject property and to scuttle the development activities on the subject property, are repeatedly filing several writ petitions invoking the jurisdiction of this Court. It is submitted that the petitioners have earlier filed two Writ Petitions and perusal of both the Writ Petitions *prima facie* discloses that the petitioners only to harass the 8th respondent with illegal motive indulged in filing series of writ petitions on frivolous and untenable grounds only to frustrate the said respondent and gain unlawfully. He further submits that the Writ Petition is only concerned with respect to alleged illegal blasting operations in Survey Nos. 709 and 710. He further submits that the subject matter of the said Writ

petitions and the interim orders passed therein are nowhere related nor connected to the subject matter of the preset Writ Petition. The respondent company is carrying on all the activities following due procedure established by law. It is submitted that the petitioners are not only making allegations against the respondent company but also accusing the government authorities of collusion without any substantial piece of evidence or any material filed on record. Learned counsel submits that all the allegations are made without any basis. It is stated that the 8th respondent has been granted no objection certificate on 06.03.2019 itself and time and again, the said No Objection Certificate has been extended by the authorities concerned only upon the recommendations of the Assistant Commissioner of Police after conducting due enquiry and No Objection Certificate has been extended once again by the authorities concerned on 04.03.2022 for blasting operations. It is submitted that in compliance with the terms of NOC, the 8th respondent has intimated the local Station House Officer before undertaking blasting operations who, in turn, have visited the blasting site to check all precautionary measures. As the operations have been carried out by duly following the conditions and precautionary measures prescribed therein, from

the last two years, the petitioners have remained silent all this while and now have approached this Court on baseless apprehensions and grievances with an illegal motive to gain unlawfully from the respondent company. It is submitted that the 8th respondent being a developer is under an obligation to develop the said land within a reasonable time and any delay in the said operations would ultimately delay the project of the respondent company causing irreparable loss and showcases lapse on the part of the respondent company. Learned counsel submits that the 8th respondent had obtained permission for conversion of agricultural land into non-agricultural purpose by proceedings dated 09.02.2019 on the file of Revenue Divisional Officer, Kandukur Division and further the entire activities on the subject property are being carried out only after taking necessary permission from the departments concerned including the departments of Respondents 2 and 3. He submits that as the petitioners have come to the Court with extraneous reasons and to harass the 8th respondent, the writ petition has to be dismissed with exemplary costs.

11. It is stated that pursuant to the representation dated 13.12.2021 received from the petitioners, the Assistant Director of Mines & Geology have inspected the site and

M/s Mile Stone Developers have produced the NOC issued by the Commissioner of Police, dated 07.12.2021, copy of short firer's certificate issued by the Deputy Controller of Explosives, Secunderabad, copy of application for layout open plot filed before the Hyderabad Metropolitan Development Authority, dated 05.08.2021, copy of development agreement-cum-GPA entered with Sri A. Asok Reddy and others and M/s Milestone Developers. From the above, it is understood that regarding the blasting activity, the subject matter does not come under the purview of Mines and Geology.

W.P.No. 12593 of 2022

12. This Writ Petition is filed seeking the following relief:

“ to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents more particularly Respondent No.3 to issuing of draft lay out for conversation of agricultural land to non-agriculture of the lands bearing Sy.No. 708 admeasuring Ac.18.25 guntas, Sy.No. 709 admeasuring Ac.15.12 gts. and Sy.No. 710 admeasuring Ac.7.35 total extent is Ac.41.32 gts. situated at Nadergul Village, Balapur Mandal, Ranga Reddy District and pending of civil suit bearing O.S.No. 56/2022 on the file of the Hon'ble XIV Addl. District Judge, L.B. Nagar, Ranga Reddy District to 6th and 7th respondents without considering the representation dated 19.02.2022 submitted by the writ petitioners herein to the respondents who acknowledged by receiving the same as illegal, arbitrary and violation of Articles of Constitution of India and consequently, direct the respondents to stop the draft layout for conversation of agricultural land to non-

agriculture of the lands bearing Sy.Nos. 708 admeasuring Ac.18.25 gts., Sy. No. 709 admeasuring Ac.15.12 gts., and Sy.No. 710 admeasuring Ac.7.35 total extent is Ac.41-32 gts., situated at Nadergul Village, Balapur Mandal, Ranga Reddy District to 6th and 7th respondents and pass such other order or orders deems fit and proper in the interest of justice.”

13. Learned counsel for the petitioners Sri Chindam Anjaneyulu submits that petitioners 1 and 2 are grandsons and the other two are the great-grandsons of late Yeugu Mallaiah. The said Yenugu Malliah acquired the agricultural land in Survey Nos. 708 admeasuring Acs.18.25 guntas, Survey No. 709 admeasuring Acs.15.12 guntas and Sy.No. 710 admeasuring Acs.18.25 guntas, Sy.No. 709 admeasuring Acs.15.12 guntas and Sy.No. 710 admeasuring Acs.7.35 guntas, total extent Acs.41.32 guntas situated at Nadergul Village, Balapur Mandal, Ranga Reddy District and they have not partitioned the property during the life time of the said Yenugu Mallaiah and all the family members are in joint possession of the properties. After that Yenugu Sathi Reddy is kartha of the joint family being a well-educated in the family and now he is managing the entire lands of joint family on behalf of all the members of HUF and his name was also entered in the revenue records. It is submitted that the property is called as Vankaralla Ghutta and the entire land is occupied by very big stones not fit

for cultivation, but is enjoyed by the deceased Mallaiah and Shanker Reddy and their sons and grandsons from generation to generation. It is submitted that the petitioners got information on 08.11.2021 and observed recently that Respondents 6 and 7 are changing the property by crushing the stones over the above said land, then they filed O.S.No. 56 of 2022 on the file of XIV Additional District Judge, Ranga Reddy District, L.B. Nagar for partition and to declare that the sale deeds are not binding and the said suit is pending. They brought the same to the notice of the Court that the petitioners and others also filed W.P.Nos. 25650 of 2021, 29255 of 2021 and 36476 of 2021 writ petitions against Respondents 6 and 7 when they are constructing illegal road, crushing of stones and encroaching the ponds and the said Writ Petitions are pending for consideration. As there is a dispute over the subject land for deciding the title or rights and till that is decided by the Court, it is necessary that they should stop issuance of draft lay out, permission for conversion of agricultural land into non-agriculture purpose in an extent of Acs.41.32 guntas. Thereupon they have made a representation dated 19.02.2022 to Respondents 2 to 5 which is pending consideration. Hence, the petitioners have come up before this Court.

14. In this Writ Petition, no interim orders are granted by this Court.

WRIT PETITION No. 37689 OF 2022

15. This Writ Petition is filed seeking the following relief:

“ to issue a writ, order or direction, more particularly one in the nature of writ of mandamus, declaring the action of the respondents more particularly Respondent No.3 to issuing of draft layout for conversation of agricultural land to non-agriculture of the lands bearing Sy.No. 708 admeasuring Ac.18.25 gts. Sy.No. 709 admeasuring Acs.15.12 gts., and Sy.No. 710 admeasuring Acs.7.35 guntas total extent is Ac.41.32 gts., situated at Nadergul Village, Balapur Mandal, Ranga Reddy District and pending of civil suit bearing O.S.No. 56/2022 on the file of the Hon’ble XIVth Addl. District Judge, L.B. Nagar, Ranga Reddy District to 6th and 7th respondents without considering the representation dated 19.09.2022 submitted by the writ petitioners herein to the respondents who acknowledged by receiving the same as illegal arbitrary ad violation of Articles of Constitution of India and consequently, direct the respondents to stop the draft layout for conversion of agricultural land to non-agriculture of the lands bearing Sy.No. 708 admeasuring Ac.18.25 gts., Sy.No. 709 admeasuring Ac.15.12 gts., and Sy.No. 710 admeasuring Ac.7.35 total extent is Ac.41.321 gts, situated at Nadergul Village, Balapur Mandal, Ranga Reddy.”

16. Learned counsel for the petitioners submits that in this Writ Petition, the petitioners are seeking a direction to the 3rd respondent not to issue any lay out for conversion of agricultural land to non-agricultural land to an extent of Acs.41.32 guntas situated at Nadergul Village, Balapur Mandal,

Ranga Reddy District on the Application filed by the 7th respondent as there are pending civil disputes i.e. O.S.No. 56 of 2022 for declaration of title and cancellation of false and fabricated sale deeds executed by Respondents 6 and 7 by colluding with family members without partitioning the properties. It is submitted that Respondents 6 and 7 started developmental works in the subject property. The petitioners made representation before the 3rd respondent on 19.02.2022 and 19.09.2022 for necessary action to stop further proceedings over the land. After receiving the representation, the 3rd respondent is not disposing of the Writ Petition which is illegal, arbitrary and violative of the Constitution of India and further direct the respondents to stop the draft lay out permission not to issue draft lay out permission for conversion of agriculture to non-agriculture purpose. It is stated that the said action on the part of the respondents is arbitrary and illegal.

17. A counter-affidavit has been filed on behalf of the HMDA. Smt. D. Madhavi, learned Standing Counsel submits that the HMDA received *on line* application dated 05.08.2021 from the 7th respondent for approval of draft lay out with open plots in Survey Nos. 703/P, 706/P, 708/P, 709/P, 710 of Nadergul Village, Balapur Mandal, R.R. District in an extent of

1,21,287.72 sq. mtrs. The 7th respondent has submitted ownership documents, link documents and other documents and the said documents have been examined by the Tahsildar. The Tahsildar had come to the conclusion that there is a *prima facie* title and the proposal for draft lay out with open plots in the said survey numbers was considered and technically approved by this respondent and issued letter dated 20.01.2022 for payment of development charges, processing charges and other charges and to comply with precedent conditions made there under. The said charges are pending from the 7th respondent and after remitting the payment as informed by the respondent and complying precedent conditions, further action would be taken for release of draft layout proceeding and plan. They have received another *on line* Application on 02.09.2021 for approval of draft layout with housing permission in Survey Nos. 703/P, 704, 705, 706/P, 707/P, 708/P and 709/P to an extent of 98309.3 square meters. The same was examined and vide letter dated 22.09.2022, the applicant was informed to submit certain shortfall documents and the same is pending. In the meantime, the 7th respondent received representations dated 19.02.2022 and 22.03.2022 from the petitioners with a request not to allow plotting over the land in Survey Nos. 706 to 710 of

Nadergul Village, Balapur Mandal. The said representation submitted by the petitioners have been examined and they informed the petitioners by proceedings dated 15.06.2022 to submit ownership documents, link documents, court case documents and any other documents in support of their claim within seven days from the date of the said letter for taking further action in the matter. It is submitted that the petitioners have made similar representation dated 19.09.2022 with a request not to issue final layout permission to Sri A. Ashok Reddy and M/s Mile Stone Developers as the suits were pending on the file of the XIV Additional District Judge, L.B.Nagar. They have not submitted any ownership documents and link documents. It is submitted that the permission granted under Section 53(4) of the HMDA Act will not confer any title on the applicant nor it will take away any person's right over the land and the HMDA has to consider the application for grant of development permission on merits leaving the objectors free to approach an appropriate forum for redressal of their grievance. Learned Standing Counsel submits that as the petitioners have filed suit for declaration and also to cancel the sale deeds, they have to go before the civil Court.

18. A reply – affidavit has been filed by the petitioners stating that the 6th respondent has got some sale deeds fraudulently over the agricultural land in Survey Nos. 708 and 709, admeasuring an extent of Acs.41.32 guntas at Nadergul Village by some of their joint family members. He submits that by filing O.S.No. 56 of 2022, they are questioning the title of the unofficial respondents. It is submitted that as stated in the counter, the petitioners have not received any notice dated 15.06.2022 to submit ownership documents, link documents, court case documents and other supporting documents within seven days at any point of time. From that, it is clear that the official respondents want to favour the unofficial respondents.

19. There are about five writ petitions filed. In the initial Writ Petitions, the petitioners without even disclosing the fact that they have interest in the subject property and they are claiming the said property or that it is the joint family property belonging to their family, simply they have stated that they are all residents of the village and the unofficial respondents are constructing a compound wall, filling up kunta and carrying out blast operations and it is creating lot of hardship to the nearby farmers. When it comes to the next two Writ Petitions where the petitioners have given a representation to the HMDA, then the

petitioners have come out with true facts how it is the joint family property and how they are claiming title to the property and the suits that are filed seeking declaration and title and for cancellation of the sale deed against the unofficial respondents. During the course of arguments, when the Court has specifically asked the petitioners why all these facts were suppressed in the earlier Writ Petitions, there was no satisfactory response from the learned counsel for the petitioners. From different Writ Petitions filed by the petitioners, there cannot be any hesitation to say that the petitioners with an intention to obtain orders have come to this Court with suppression of facts. When a person approaches this Court seeking a public law remedy under Article 226 of the Constitution of India, he has to come to the Court with clean hands and he should state all the material facts before the Court. This Court is not able to appreciate the contention that the petitioners are claiming ownership in respect of the very same property is not a material factor to be disclosed. Suppressing the material facts is nothing but playing fraud on the Court as well as on the other side. The petitioners as if they are innocent farmers have filed the Writ Petitions and successfully obtained orders from this Court. These kinds of litigations cannot be entertained by this Court.

20. An applicant who does not come with candid facts and clean freest cannot hold a writ of the Court with 'soiled hands' suppression or concealment of material is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of Court for abusing the process of the Court. (Kensington Income Tax Commrs¹)

21. If the primary object as highlighted in Kensington Income Tax Commissioners 1977 2 SCC 431 is kept in mind, an applicant who does not come with candid facts and 'clean breast' cannot hold a writ of the Court with 'soiled hands'. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or

¹ (1917) 1 KB 486

misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the Court, the Court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the Court does not reject the petition on that ground, the Court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of Court for abusing the process of the Court. (K.D. Sharma v. Steel Authority of India Limited and others²).

22. For many centuries, Indian society cherished two basic values of life i.e., 'Satya' (truth) and 'Ahimsa' (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of justice delivery system which was in vogue in pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has

² (2008) 12 SCC 481

become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. (Dalip Singh v. State of Uttar Pradesh and others³).

23. It is of utmost importance that in making material statements and setting forth grounds in applications for special leave made under Article 136 of the Constitution, care must be taken not to make any statements which are inaccurate, untrue and misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. Thus, if at the

³ (2010) 2 SCC 114

hearing of the appeal the Supreme Court is satisfied that the material statements made by the appellant in his application for special leave are inaccurate and misleading, and the respondent is entitled to contend that the appellant may have obtained special leave from the Supreme Court on the strength of what he characterizes as misrepresentations of facts contained in the petition for special leave, the Supreme Court may come to the conclusion that in such a case special leave granted to the appellant ought to be revoked (*Hari Narain v. Badri Das*⁴).

24. In exercising jurisdiction under Article 226 of the Constitution, the High Court will always keep in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, then the Court may dismiss the action without adjudicating the matter on merits. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted,

⁴ AIR 1963 SC 1558

the very functioning of the writ courts would become impossible (Prestige Lights Ltd. V. SBI⁵).

25. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the Writ Court must come with clean hands and put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim. The same rule was reiterated in G. Jayshree and others v. Bhagwandas S. Patel and others (2009) 3 SCC 141. (K.D. Sharma v. SAIL⁶).

26. This Court in Prestige Lights Ltd. V. State Bank of India has held that a prerogative remedy is not available as a matter of course. In exercising extraordinary power, a writ court would indeed bear in mind the conduct of the party which is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of

⁵ (2007) 8 SCC 449

⁶ (2008) 12 SCC 481

misleading the court, the court may dismiss the action without adjudicating the matter. It was held thus:

“33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

27. In *K.D. Sharma v. Steel Authority of India Limited and Others*, it was held thus:

“34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim. (*K.Jayaram and others v. Bangalore Development Authority and others*)”

⁷ 2021 SCC online SC 1194

28. The discretion exercised by the Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary. While exercising the extraordinary power, the Court shall necessarily bear in mind the conduct of the parties. A litigant is bound to disclose all relevant facts. If he holds some material facts to gain advantage, he is guilty of placing fraud on the Court as well as on the other side. The conduct of the petitioner in this case is nothing but playing fraud on the Court as well on the other side. If these kind of litigants are not eradicated, the result would be that the citizen will lose faith in the justice delivery system and also would ruin the rule of law.

29. The counter filed by the HMDA and the instructions that are placed on record by the Mines Department shows that the unofficial respondents are carrying out the blasting operations as per the permission obtained from the HMDA. Now the petitioners are requesting the HMDA not to grant permission basing on a title suit and also they are seeking cancellation of the sale deeds. It means the unofficial respondents are having a sale deed and other documents in their favour. Those documents are only relevant for the respondents while granting permission and mere pendency of the suit filed by the petitioners seeking cancellation of the sale deed cannot be a

ground for the official respondents not to grant any permission. Apart from all these aspects, the petitioners are not entitled for any kind of relief from this Court as they have approached this Court with suppression of facts.

30. Accordingly, all these Writ Petitions are dismissed with costs of Rs.10,000/- (Rupees ten thousand only) to be paid to the High Court Legal Services Authority within a week.

31. The Miscellaneous Applications, if any shall stand automatically closed.

LALITHA KANNEGANTI, J

23rd November 2022

ksld

