



W.P.(MD).No.29762 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P.(MD).No.29762 of 2024
and
W.M.P.(MD).No.25090 of 2024

Usha Maheswari

... Petitioner

Vs.

1.The Corporation Commissioner,
Madurai Corporation
Madurai.

2.The Commissioner of Police,
Near Thamarai Thotti,
K.Pudur,
Madurai.

3.The Inspector of Police,
C-3. Police Station,
S.S.Colony,
Madurai.

4.Rajendran

5.R.Varatharajaperumal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, forbearing the respondents from fencing or blocking



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the access in respect of the road situated in T.S.No.9, Ellis Nagar, Ponmeni Village, Madurai District by considering the representation of the petitioner dated 25.11.2024.

For Petitioner : Mr.R.Ramasamy
For R-1 : Mrs.S.Devasena
Standing Counsel
For R-2 & R-3 : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)
For R-4 & R-5 : Mr.K.C.Ramalingam

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

By consent of both sides, the Writ Petition is taken up for final disposal at the stage of admission itself.

2. Alleging that the respondents 4 and 5 herein have encroached upon a public road in T.S.No.9, Ellis Nagar, Ponmeni Village, Madurai District, the present Writ Petition under the guise of a Public Interest Litigation (hereinafter referred to as 'PIL') has been filed by the petitioner herein, seeking for restraining them from blocking access to the road.



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3. Admittedly, there is a civil suit pending in O.S.No.277 of 2019 before the V Additional District Court, Madurai, filed by the fourth respondent, wherein, the petitioner herein is also arrayed as a defendant and the relief sought for in that suit, is for declaration and permanent injunction with regard to certain properties, which are claimed to be adjacent to T.S.No.9.

4. Incidentally, the learned counsel appearing for the respondents 4 and 5 would submit that earlier, the petitioner herself has filed a suit in O.S.No.295 of 2019, seeking for permanent injunction allegedly for certain lands adjacent to T.S.No.9, which suit was also dismissed.

5. Apparently, there appears to be a land dispute between the petitioner and the respondents 4 and 5 herein, for which, a civil suit is also pending. While that being so, we are unable to comprehend as to how the present Writ Petition could be termed as a Public Interest Litigation.

6. Even in the affidavit filed in support of the present Writ Petition, the petitioner has stated that on the strength of the orders passed by this Court in a Writ Petition in W.P.(MD).No.2488 of 2024 dated 07.02.2024, which granted



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liberty to the fifth respondent to approach the Civil Court seeking for execution of an alleged decree in his favour, the fifth respondent is in the process of fencing the property in T.S.No.9. Apart from a stray sentence that the property in T.S.No.9, which is a road, is being used by herself and other residents, the entire affidavit running to about six pages only speaks about the civil dispute between the petitioner and the respondents 4 and 5 herein. An appraisal of the statements made therein, reveals that the present Writ Petition, which is styled as a PIL, is nothing but a camouflage to foster personal dispute.

7. A Public Interest Litigation is intended to vindicate public interest where the fundamental and other rights of the people, who are poor, ignorant or in socially or economically disadvantageous position and are unable to seek legal redress, are espoused, as held by the Hon'ble Supreme Court in the case of ***Balco Employees' Union (Regd.) Vs. Union of India*** reported in **(2002) 2 SCC 333**.

8. In ***Janta Dal Vs. H.S.Chowdhary*** reported in **(1992) 4 SCC 305**, the Hon'ble Supreme Court had observed that only a person acting bona fide and having sufficient interest in the proceeding of PIL, will alone have *locus standi* and can approach the Court to wipe out the tears of the poor and needy,



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suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration.

It was further held therein that a vexatious petition under the colour of PIL, brought before the Court for vindicating any personal grievance, deserves rejection at the threshold and a PIL, which is a weapon, has to be used with great care and circumspection. The Hon'ble Supreme Court had further held that 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 aforesaid decisions are a very few of several other decisions of the Hon'ble Supreme Court with regard to vexatious private interest litigations under the guise of a Public Interest Litigation.

9. In line with all these decisions of the Hon'ble Supreme Court, the Madras High Court had issued a notification in SRO C-2/2010 dated 26.07.2010, regulating the rules relating to filing of PIL under Article 226 of the Constitution of India. The Circular reads as follows:

"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 Litigations (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 whether he has filed the petition out of his own funds or from other sources. If it is the latter, the particulars should be given.



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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 above rules will not be applicable to the Public Interest Litigations taken on file by the High Court."*

10. In the present case, the petitioner complains about the fifth respondent attempting to fence a road situated in T.S.No.9, which would affect her as well as other residents. But her grievance as spelt out in her affidavit does not appear to espouse the cause of the residents at all. Rather, when the affidavit is considered in its entirety, her grievance appears to be a land dispute



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with the respondents 4 and 5, for which, a civil suit is also pending between them.

11. In this background, we have no hesitation to come to the irresistible conclusion that the present Writ Petition can never, by any stretch of imagination, be termed to espouse the grievance of the public.

12. The petitioner, in her affidavit, has given an undertaking that she would pay cost, if the Court identifies her personal interest in this *lis*. We are constrained to invoke the undertaking given by her and impose an exemplary cost for having abused the process of law.

13. Accordingly, the Writ Petition stands dismissed with a direction to the petitioner to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of the District Siddha Medical Officer, CCRI, Periyakulam (State Bank of India, Periyakulam Branch, Account No.10767823177, IFSC Code : SBIN0000898), on or before 18.12.2024. Consequently, connected miscellaneous petition stands closed.



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14. Post the matter on 19.12.2024 under the caption 'for recording compliance'.

(M.S.R.,J.) (A.D.M.C.,J.)
10.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The Corporation Commissioner,
Madurai Corporation
Madurai.

2.The Commissioner of Police,
Near Thamarai Thotti,
K.Pudur,
Madurai.

3.The Inspector of Police,
C-3. Police Station,
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