
(1997) 03 AP CK 0061
In the Andhra Pradesh High Court
Case No : W.A. No. 1449 of 1996

K. Hanumantha Rao and Others

APPELLANT

Vs

Prl. Sub-Judge and Others

RESPONDENT

Date of Decision : 28-03-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 4 ALT 444

Hon'ble Judges : Lingaraja Rath, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : K. Ashok Reddy, for the Appellant; Govt. Pleader for Land Acquisition, for the Respondent

Final Decision : Dismissed

Judgement

B. Sudershan Reddy, J.—The unsuccessful writ petitioners are the appellants in this writ appeal. The writ petition is purported to have been filed by them in public interest. They have prayed for issuance of an appropriate writ more particularly one in the nature of Writ of Mandamus directing the 1st Respondent-Principal Subordinate Judge, Vijayawada to decide O.P. No. 350 of 1987 and O.P. No. 67 of 1988 on merits by considering the contentions and the evidence, if any, adduced by the parties by setting aside the docket order dated 22-3-1996 in the said O.Ps.

Factual Matrix:

2. According to the averments made in the affidavit filed in support of the writ petition, the dispute relate to payment of compensation for the land situated in N.T.S. No. 368/3A admeasuring an extent of Ac.1-65 cents and land admeasuring an extent of Ac.2-88 cents in N.T.S. No. 368/3A situated in Moghalrajapuram of Vijayawada Urban Mandal of Krishna District. It is alleged that the compensation amount for the land was likely to be paid to the 3rd Respondent herein, though he is not the real owner of the land in question.

According to the petitioners, the land in question is the Government land. The petitioners are stated to have made representation to the 5th Respondent with a request to investigate into the matter and prevent the 3rd Respondent from taking away the amount lying in deposit with the 1st Respondent and as the guardian of the State property at the District level. The 5th Respondent failed to take action immediately. According to the petitioners, the inaction of the 5th Respondent in the matter has resulted and facilitated the 3rd Respondent to take away the amount lying in deposit with the 1st Respondent, though he has no right over the same. The inaction of the 5th Respondent in not ordering an investigation into the whole episode is nothing but arbitrary, capricious, according to the petitioners. The petitioners are aggrieved by the order passed by the 1st Respondent-Principal Subordinate Judge in O.P. Nos. 350/87 and 67/88 in which proceedings, the 1st Respondent had recorded the compromise entered into by and between the parties to the said proceedings including the 3rd Respondent. Both the O.Ps. were referred to the 1st Respondent by Land Acquisition Officer u/s 30 of the Land Acquisition Act, 1894, for short "the Act", as there were rival claimants claiming the compensation awarded by the Land Acquisition Officer in respect of the said land referred to hereinabove. According to the petitioners, the 1st Respondent ought not to have recorded the compromise and ought to have insisted the parties to lead evidence in support of their respective claim and thereafter ought to have decided the matter on merits.

3. The necessary facts for adjudication of the writ petition are not stated in the affidavit. The affidavit contains vague and indefinite allegations stating that none of the private parties have got any right, title or possession of the said land acquired under the provisions of the Land Acquisition Act and it is an open land exclusively belonging to the Government. No material whatsoever in support of the claim is brought before the Court by the petitioners.

4. We have, in the circumstances, heard the matter in detail and very elaborately and perused the records. Having regard to the facts and circumstances, we have directed the District Collector to file an affidavit in the writ appeal and accordingly counter-affidavit and additional counter-affidavit has been filed by the District Collector. The following undisputed facts, relevant for the purpose of adjudication of this writ appeal are evident from the record.

5. The total extent of land in N.T.S. No. 368/3 of Moghalraipuram, Vijayawada is Ac.10-95 cents. The N.T.S. No. 368 was Sub-divided into N.T.S. Nos. 368/1, 368/2, 368/3A and 368/3B. The extent of N.T.S. No. 378/3A is Ac.5-76 cents.

6. Be that as it may, the land admeasuring Ac.8-50 cents in N.T.S. No. 368 and an extent of Ac.8-92 cents in N.T.S. No. 369 were enquired under the Land Acquisition Act by a notification issued u/s 4(1) of the Act and published in A.P. Gazette on 9-1-1975. The acquisition was for the purpose of construction of Bus Depot. The notification was followed by draft declaration u/s 6 of the Act on 21-5-1977. The declaration u/s 6 of the Act has shown the acquired land as N.T.S. No. 368/3A and 369/1 and the name of one Valluru Bapaiah was shown as

enjoyer of N.T.S. No. 368/3A. The said declaration was published in A.P. Gazette on 30th June, 1977. The possession of the said land was taken over by the A.P.S.R.T.C. with the consent of the Land owners on 18-6-1978.

7. The said Valluru Bapaiah and the 3rd Respondent herein claimed compension for the land acquired in N.T.S. No. 368 (368/3A) for an extent of Ac.3-73 cents. However, the said Valluru Bapaiah has stated before the Land Acquisition Officer that he had already sold the land admeasuring Ac.3-73 cents forming part of N.T.S. No. 368/3A to the 3rd Respondent under an agreement of sale dated 5-7-1976 having received the entire consideration amount. The 3rd Respondent herein claimed the entire amount of compensation as purchaser of the extent of Ac.3-73 cents. It is clear from the records that though possession of the entire extent of Ac. 17-52 cents was taken over on 18-6-1978 pursuant to the notification u/s 4(1) of the Act published on 9-1-1975, awards were passed for different extents at different points of time. The first award was passed in Award No. 8./83 dated 20-12-1983 in which compensation amount was determined for an extent of Ac.1-65 cents in N.T.S. No. 368/3A and Ac.7-32 cents in N.T.S. No. 369/1. In this award, the Land Acquisition Officer determined the compensation amount in accordance with the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 and not under the provisions of the Land Acquisition Act. The said award was challenged by the aggrieved persons in W.P. No. 877 of 1984 and this Court by an order dated 24-4-1986 disposed of the writ petition by observing as follows:

"Instead of following the principles laid down under (the provisions) L.A. Act he has (i.e., the LAO) missguided and adopted the guidelines under the provisions of U.L. (C&R) Act, 1976, which is highly misplaced for two reasons, at any rate namely notification u/s 4(1) is admittedly published on 9-1-1975 which is prior to the advent of Urban Land (C&R) Act, (1976) which came into vogue on 17-2-1976. The Competent Authority, Urban Land Ceilings, Vijayawada have also stated that the land in question is not vacant land within the meaning of the Urban Land Ceiling Act, but it is Agricultural land notwithstanding the fact that the said land is sought to be treated as vacant land. Consequently, the principles laid down under the provisions of Urban Land (C&R) Act, 1976 are found to be attracted and then the amount of compensation was determined. Hence impugned Award is set aside and the L.A.O. was directed to determine the amounts of compensation under L.A. Act, in the light of observations made, within four weeks from the date of the receipt of this order."

Consequently a fresh award was passed by the Land Acquisition Officer in Award No. 2/87 for an extent of Ac.1-65 cents in N.T.S. No. 368/3A and for another extent of Ac.7-32 cents in N.T.S. No. 366/1 by fixing the market value under the provisions of the Land Acquisition Act. Since more than one claimant was claiming the compensation amount, the Land Acquisition Officer has referred the dispute u/s 4(1) of the Land Acquisition Act to the Civil Court in O.P. No. 350/87 while depositing the entire compensation amount of Rs.4,33,139-40 ps. to the

credit of the said O.P.

8. It is required to notice that the 3rd Respondent herein filed W.P. No. 774/82 complaining the inaction on the part of the respondents in not passing the Award for the balance extent of Ac.2-08 cents in N.T.S. No. 368/ 3A and the said writ petition was disposed of by a Division Bench of this Court on 24-8-1987 observing that "it is obligatory on the part of the authorities to complete the enquiry to the extent of Ac.2-08 cts. and we do hereby order hearing within two months from the date of receipt of this order pronounce the award, if it is not already passed, for the whole of Ac.2-08 cts. or any part thereof". The Land Acquisition Officer, pursuant to the directions of this Court passed Award No. 7/87 on 17-11-1987 with regard to the extent of Ac.2-08 cts. in N.T.S. No. 368/3A awarding an amount of Rs.6.28.158.40 ps. as compensation. The matter was referred to the Civil Court u/s 4(1) of the Land Acquisition Act in view of the rival claims. The said reference is numbered as O.P.67/88 on the file of the 1st Respondent.

9. It is thus clear that the Land Acquisition Officer passed the Award No. 2/87 dated 22-4-1987 and 7/87 dated 17-11-1987 pursuant to the directions of this Court in W.P. Nos. 877/84 and 774/82 respectively. The order of this Court passed in the said writ petitions have become final.

10. The record also would disclose that the 3rd Respondent herein has filed declaration u/s 6 of the Urban Land Ceiling Act, for short "the Ceiling Act" before the competent authority on 17-10-1982 in respect of Ac.3-73 cts. in N.T.S. No. 368/3A in C.C. No. 2736/82. It is evident from the record that the 3rd Respondent herein was not in possession of the land even on the date of filing the declaration, inasmuch as the possession of the land was taken by the A.P.S.R.T.C. as early as in 18-6-1978 itself. The final settlement u/s 9 was issued by the competent authority determining the holding of the 3rd Respondent herein and declaring him to be holding an extent of 6754.41 Sq. mtrs. in excess of the ceiling area out of an extent of 14932 Sq. mtrs. in N.T.S. No. 368/3A. The 3rd Respondent herein filed an application u/s 20 of the Ceiling Act before the Government of A.P. for exemption on 29-3-1982 which is stated to be still pending. It is clear that no notification u/s 10(1) of the Ceiling Act was ever issued and published vesting the surplus land admeasuring 6754.47 Sq. mtrs. in Sy. No. 368/3 A in the Government. In fact the 3rd Respondent was not in possession of that land either on the date of his filing declaration u/s 6 of the Urban Land (Ceiling and Regulation) Act or on the date of the final statement determining the holding of the land held by the 3rd Respondent on 25-2-1984. The notification u/s 4(1) of the Land Acquisition Act was published in the official Gazette on 9-1-1975 much prior to the Urban Land Ceiling Act coming into force. At any rate, the compensation under the provisions of the Land Acquisition Act was determined by the Land Acquisition Officer, pursuant to the directions of this Court in W.P. Nos. 877/84 and 774/82.

11. In such view of the matter, the contention raised in the writ petition t'tat

none of the private parties have got any right, title or possession of the lands in question is totally untrue, untenable and unsustainable. It is not clear as to on what basis the petitioners submit that the land in question does not belong to the private parties but to the Government. There is no material available on record in support of the said plea. Even in the counter-affidavit filed by the District Collector there is no plea to the effect that the land in question which is the subject matter of the acquisition belongs to the Government. The only question perhaps that could have been raised is as to whether the claimants are entitled for the compensation under the provisions of the Land Acquisition Act in view of the determination by the Special Officer and the competent authority holding the 3rd Respondent as a surplus land holder of an extent of 6754.47 Sq. mtrs. But even this plea was not available, as the award has been passed determining the compensation under the provisions of the Land Acquisition Act pursuant to the directions of this Court. In such view of the matter we are clear in our mind that there is no fraud or collusion whatsoever as alleged by the petitioners.

12. It is evident from the record that both the O.Ps. u/s 30 of the Land Acquisition Act after reference by the Land Acquisition Officer were pending on the file of the 1st Respondent herein since 1987. The 3rd Respondent herein having filed detailed claim statement tracing out his right, title and interest with regard to the said land claimed the entire compensation amount. All other claimants have relinquished their respective claim in favour of the 3rd Respondent and a memo to that extent was filed before the 1st Respondent which was recorded and the O.Ps. were disposed of by docket order dated 22-3-1996. No decree as such was prepared by the 1st Respondent Court and the 3rd Respondent was constrained to move this Court under Article 227 of the Constitution of India in C.R.P. No. 14197/96 which was disposed of by this Court on 1-7-1996 directing the Civil Court to issue decree in terms of the docket order dated 2-3-1996 to enable the 3rd Respondent to withdraw the compensation amount in deposit. It is rather difficult to appreciate as to how the order passed by the 1st Respondent herein could be said to be illegal or void. All the claimants in the said O.Ps. have relinquished their right, title or interest in favour of the 3rd Respondent and the same was recorded by the 1st Respondent. No lis as such remained so as to be resolved by the 1st Respondent and there was no option before the 1st respondent except to record the compromise, as the dispute was amongst the rival claimants and not between the State/Government and other claimants. The respondents have committed no irregularity or illegality. The order passed by the 1st Respondent is not vitiated for any reason.

13. No factual foundation in support of allegations as such is laid by the petitioners in the affidavit filed in support of the writ petition. On the other hand, the allegations made in the affidavit are totally vague and indefinite. The assertion made by the petitioners that the land in question belongs to Government has no basis whatsoever. The land even according to the District Collector is classified as Sery dry (private land) and registered as such in the settlement records of 1923 of Moghalrajapuram village in the names of D. Ranga

Rao and G. Laxman Rao. The petitioners are not even aware of the proceedings under the Urban Land (Ceiling and Regulation) Act. They are not aware of the directions issued by this Court in W.P. Nos. 877/84 and 774/82 directing the Land Acquisition Officer to pass the award determining the compensation payable to the claimants under the provisions of the Land Acquisition Act. No doubt, the petitioners have referred to the pendency of O.Ps.350/87 and 67/88. They have never raised their little finger during the pendency of the said O.Ps. claiming as if the land belongs to the Government. It is rather difficult to appreciate as to why the petitioners have kept quiet since 1987 when the matter was referred to the Civil Court for resolving the rival claims and approached this Court only when the amount was likely to be paid to the 3rd Respondent.

Public Interest litigation and its scope:-

14. The petitioners do not even disclose their complete identity except stating that they are all permanent residents within the limits of Vijayawada Municipal Corporation and have been fighting for the cause of general public. The idea, if any entertained by the public interest litigants that they need not disclose to the Court the complete details about them needs to be dispelled. They are bound to disclose the full particulars about them including their status, avocation and Host of other details. The Court would be in a better position to appreciate the questions raised and the competency of the public interest litigants to raise such questions provided the required information is made available to the Court. It is not as if any person or body of persons can casually approach and invoke the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India by levelling unfounded allegations against the Government and its Officers and other private individuals without any basis. The petitioners in public interest litigation are bound to reveal the complete facts and assist the Court in a dispassionate manner. The facts stated by the public interest litigant should reveal that he is genuinely concerned in public interest and only then the Court would be satisfied and proceed further in the matter. No person in the name of public interest litigation can claim an automatic right of hearing and such hearing cannot be provided by the Court unless the Court is satisfied about the bona fides of the person approaching the Court. The Apex Court in a recent Judgment in S.P. Anand Vs. H.D. Deve Gowda and others, observed:

"Before we part, we cannot help mentioning that on issues of constitutional law, litigants who can lay no claim to have expert knowledge in that field should refrain from filing petitions, which if we may say so, are often drafted in a casual and cavalier fashion giving an extempore appearance not having had even a second look. This is the impression that one gets on reading the present petition. It is of utmost importance that those who invoke this Court's jurisdiction seeking a waiver of the locus standi rule must exercise restraint in moving the Court by not plunging in areas wherein they are not well-versed. Such a litigant must not succumb to spasmodic sentiments and behave like a knight-erant roaming at will in pursuit of issues providing publicity. He must remember that as a person

seeking to espouse a public cause, he owes it to the public as well as to the Court that he does not rush to Court without undertaking a research, even if he is qualified or competent to raise the issue. Besides, it must be remembered that a good cause can be lost if petitions are filed on half-backed information without proper research or by persons who are not qualified and competent to raise such issues as the rejection of such a petition may affect third party rights. Lastly, it must also be borne in mind that no one has a right to the waiver of the locus standi rule and the Court should permit it only when it is satisfied that the carriage of proceedings is in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the Court must be careful to ensure that the process of the Court is not sought to be abused by a person who desires to persist with his point of view, almost carrying it to the point of obstinacy....."

15. It is true, the Constitutional Courts in India gave new and liberal dimension to the law of standing and made access to Courts easy, with a view to bring the law into service of the poor and oppressed. The public interest litigation in India is basically concerned with the issues relating to infringement of legal and fundamental right of poor masses by the agencies of the State and offers a viable strategy improving the lives of the less advantaged persons of the society through the judicial process. Its true nature and the scope is explained in S.P. Gupta Vs. President of India and Others, .

"Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons and such a person or determinate class of persons is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the Court for relief, any member of the public can maintain an application for appropriate direction....."

The public interest litigation is aimed at combatting inhuman prison conditions- Sunilbatra v. Delhi Administration, AIR 1978 SC 1675, 1978 CriLJ 1741, (1978) 4 SCC 494, [1979] 1 SCR 392 and securing release of bonded labour - People's Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, . Bandhua Mukti Morcha Vs. Union of India (UOI) and Others, . The public interest litigation has come to stay in India and it has added a new dimensions to the nature of judicial process. The origin and its growth would show its efficacy in the matter of enforcing the right to a speedy trial- Hussainara Khatoon and Others Vs. Home Secretary, State of Bihar, Patna, and Abdul Rehman Antulay Vs. R.S. Nayak and another etc. etc., the right to legal aid - Madhav Hayawadanrao Hoskot Vs. State of Maharashtra, right to livelihood- Olga Tellis and Others Vs. Bombay Municipal Corporation and Others, a right against pollution, a right to be protected from industrial hazards, the right to human dignity and right to basic needs - Kishan Patnaik v. State of Orissa, 1989 (1) SCALE 32. The public interest litigation has helped in the improvement of inhuman living condition of mentally sick persons in asylums. In all these cases, the Court at the instance of the public interest litigants passed necessary orders compelling the State and its

instrumentalities to discharge their statutory and constitutional duties. The public interest litigants moved the Court in those cases on behalf of the disabled persons who by themselves were not in a position to set the law in motion and get the law enforced. The rule relating to standing was relaxed and the complaints from responsible citizens and social action groups were entertained by the Apex Court and all such public interest litigants were declared to have sufficient interest in the matter. "Every responsible citizen has an interest in seeing that the law is enforced.....and that is sufficient interest in itself to warrant his applying for certiorari or mandamus to see that it is enforced - Lord Denning - The Discipline of Law.

16. In *State of Himachal Pradesh Vs. A Parent of a Student of Medical College, Simla and Others*, , the Apex Court while explaining the scope of the public interest litigation observed:

"This is an innovative strategy which has been evolved by the Supreme Court for the purpose of providing easy access to justice to the weaker sections of Indian humanity and it is a powerful tool in the hands of public spirited individuals and social action groups for combating exploitation and injustice and securing for the under-privileged segments of society their social and economic entitlements. It is a highly effective weapon in the armoury of the law for reaching social justice to the common man."

Thus the Apex Court itself had explained the nature and purpose for which the rule of Standing is relaxed.

17. In *Fertilizer Corporation Kamgar Union (Regd.), Sindri and Others Vs. Union of India (UOI) and Others*, the Apex Court having held that locus standi must be liberalised to meet the challenges of the time and should be so enlarged to embrace all interests of public minded citizens or organisations with serious concern or conservation of public resources and the direction and correction of public power so as to promote justice in its triune facets; but administered caution and observed:

"If a citizen is no more than a wayfarer or officious intervener without any interest or concern beyond what belongs to any one of the 660 million people of this country, the door of the Court will not be ajar for him. But, if he belongs to an organisation which has special interest in the subject-matter, if he has some concern deeper than that of a busy body. he cannot be told off at the gates, although whether the issue raised by him is justiciable may still remain to be considered.& "

In *Bandhnu Mukti Morcha v. Union of India and Ors.* (5 supra) the Apex Court observed that:

"Public interest litigation is not in the nature of adversary litigation but it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the

community and to assure them social and economic justice which is the signature tune of our Constitution."

The whole object of the public interest litigation and the reason for relaxing the traditional rule of Standing is explained by the Supreme Court in very clear terms. In *People's Union for Democratic Rights and Ors. v. Union of India and Ors.* (4 supra) the Apex Court observed:

"We wish to point out with all the emphasis at our command that public interest litigation which is a strategic arm of the legal aid movement and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, is a totally different kind of litigation which is essentially of an adversary character where there is a dispute between two litigating parties, one making claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public interest litigation is brought before the Court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large numbers of people who are poor, ignorant or in a socially or economically dis-advantaged position should not go unnoticed and unredressed. That would be destructive of the rule of law which forms one of the essential elements of public interest in any democratic form of Government. The rule of law does not mean that the protection of the law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protecting and upholding the status quo under the guise of enforcement of their civil and political rights. The poor too have civil and political rights and the rule of law is meant for them also, though to-day it exists only on paper and not in reality. If the sugar barons and the alcohol kings have the fundamental right to carry on their business and to fatten their purses by exploiting the consuming public, have the chamars belonging to the lowest strata of society no fundamental right to earn an honest living through their sweat and toil? The former can approach the Courts with a formidable army of distinguished lawyers paid in four or five figures per day and if their right to exploit is upheld against the Government under the label of fundamental right, the Courts are praised for their boldness and courage and their independence and fearlessness are applauded and acclaimed. But, if the fundamental right of the poor and helpless victims of injustice is sought to be enforced by public interest litigation, the so-called champions of human rights frown upon it as waste of time of the highest Court in the land, which, according to them, should not engage itself in such small and trifling matters. Moreover, these self-styled human rights activists forget that civil and political rights, priceless and invaluable as they are for freedom and democracy, simply do not exist for the vast masses of our people. Large numbers of men, women and children who constitute the bulk of our population are to-day living a sub-human existence in conditions of object poverty; utter grinding poverty has broken their back and sapped their moral fibre. They have no faith in the existing social and economic system. What civil

and political rights are these poor and deprived sections of humanity going to enforce?.....

Public interest litigation, as we conceive it, is essentially a co-operative or collaborative effort on the part of the petitioner, the State or public authority and the Court to secure observance of the constitutional or legal rights benefits and privileges conferred upon the vulnerable sections of the community and to reach social justice to them. The State or public authority against whom public interest litigation is brought should be as much interested in ensuring basic human rights, constitutional as well as legal, to those who are in a socially and economically disadvantaged position, as the petitioner who brings the public interest litigation before the Court. The State or public authority which is arrived as a respondent in public interest litigation should, in fact, welcome it, as it would give it an opportunity to right a wrong or to redress an injustice done to the poor and weaker sections of the community whose welfare is and must be the prime concern of the State or the public authority.....

The time has now come when the Courts must become the Courts for the poor and struggling masses of this country. They must shed their character as upholders of the established order and the status quo. They must be sensitised to the need of doing justice to the large masses of people to whom justice has been denied by a cruel and heartless society for generations. The realisation must come to them that social justice is the signature tune of our Constitution and it is their solemn duty under the Constitution to enforce the basic human rights of the poor and vulnerable sections of the community and actively help in the realisation of the constitutional goals. This new change had to come if the judicial system is to become an effective instrument of social justice, for without it, it cannot survive for long. Fortunately, this change is gradually taking place and public interest litigation is playing a large part in bringing about this change. It is through public interest litigation that the problems of the poor are now coming to the forefront and the entire theatre of the law is changing. It holds out greater possibilities for the future."

18. It is thus absolutely clear that the whole purpose and object of public interest litigation and liberalisation of the traditional rule relating to standing is to render socio-economic justice to the poor and weaker sections. The Courts have permitted public spirited citizens and organisations with known credentials to invoke the extra ordinary jurisdiction on behalf of the deprived sections of the Society for the enforcement of their legal and fundamental rights. The liberalisation of rule regarding standing can never be construed as a licence granted to litigants to invoke the extra ordinary jurisdiction of the Court to raise any dispute of their choice. In our considered view, no such right is granted to any litigant. It is not as if every member of the public can complain of any and every breach of statutory duty. We are of the considered opinion that public interest litigants must in clear terms state the details about their concern and commitment in the subject matter of the debate proposed to be espoused and

should clearly indicate their interest. They must declare and satisfy the Court in unmistakable terms that they have nothing to gain personally out of the subject matter. The public interest litigants must satisfy the Court about their bona fides even at the threshold, so as to enable the Court to decide as to whether to proceed further in the matter at the instance of the public interest litigants. More often than not, the Courts are confronted with frivolous petitions by the litigants wearing the mantle of public interest litigation. It is only a garb for them. Many rumour-mongers and mischief-makers are making their way into the portals of justice in the name of public interest litigation. Publicity craze cranks too have their own axe to grind. There is need to take effective measures to prevent the abuse of judicial process in the name of public interest litigation. The prophecy that PIL is Publicity Interest Litigation has to be proved wrong.

19. It is true that no aspect of constitutional law has been changing more rapidly than the law governing locus standi. The change is described by Lord Diplock as "progress towards a comprehensive system of Administrative Law and the greatest achievement of the English Courts" *IRC v. Federation of Self-Employed*, (1981) 2 All.E.R. 93". The Higher Courts in India have come to recognise that the standing requirement should not be barriers to justice. The liberalisation of rule relating to Standing has made possible the veritable revolution that had occurred in Environmental law and the law of Consumer Protection. However, a distinction is required to be borne in mind between the class actions such as those relating to consumer cases and environmental cases on the one hand and the cases which are more or less in the nature of complaints against Government and Governmental agencies. In the latter cases the Court should insist upon the bona fides of the public interest litigant even at the threshold. It is in this area, the Courts may have to insist the public interest litigant to satisfy about the bona fides in the subject matter of litigation. It is in this area where the Court should insist the public interest litigant to satisfy the Court about his interest beyond what belongs to any one of the thousands and millions of people of this country. The Court may have to satisfy to itself that the person initiating the public interest litigation has atleast some special interest in the subject matter and that he has some concern deeper than that of a busy body. Who is a busy body? "A busy body is a person whose motive in challenging governmental action is not to right a wrong but to achieve some ulterior end: *Peter case*, (1995) Public Law 276. Such scrutiny by the Court to some extent may deter the vested interests and prevent misuse of public interest litigation.

20. The streams of justice have to be kept pure and unpolluted. The Court has duty to insist the public interest litigant to satisfy that public interest litigation is free from political motivation, lest the Court itself may be caught up in the political vortex. The Court has good reasons to share the impression that at least in some cases the judicial process is abused under the cover of public interest litigation to target their rivals. This great weapon of public interest litigation cannot be allowed to be abused for such purposes. Unmasking of such vested interests misusing public interest litigation is an extremely difficult task for the

Court. Yet, the Court has to evolve its own methods to prevent such abuse. May, the Court may be accused of having allowed itself to be involved in political quagmire. The Courts should not be seen as operative a sort of surrogated political process.

21. In *Sachidanand Pandey v. State of W.B.*, AIR 1987 SC 1109 , the Apex Court indicated in clear terms as to when the Court should leave aside procedural shackles and hear public interest petitions. The Apex Court observed:

"It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the Courts, especially this Court, should leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for any one to walk in. It is necessary to have some self-imposed restraint on public interest litigants,"

22. In *Janata Dal Vs. H.S. Chowdhary and Others*, , the Apex Court observed:

"Though we have, in our country recognised a departure from the strict rule of locus standi as applicable to a person in private action and broadened and liberalised the rule of standing and thereby permitted a member of the public, having no personal gain or oblique motive to approach the Court for enforcement of the constitutional or legal rights of socially or economically disadvantaged persons who on account of their poverty or total ignorance of their fundamental rights are unable to enter the portals of the Courts for judicial redress, yet no precise and inflexible working definition has been evolved in respect of locus standi of an individual seeking judicial remedy and various activities in the field of PIL. Probably, some reservation and diversity of approach to the philosophy of PIL among some of the Judges of this Court as reflected from the various decisions of this Court, is one of the reasons for this Court finding it difficult to evolve a consistent jurisprudence in the field of PIL. True, in defining the rule of locus standi no "rigid litmus test" can be applied since the broad contours of PIL are still developing space seemingly with divergent views on several aspects of the concept of this newly developed law and discovered jurisdiction leading to a rapid transformation of judicial activism with a far reaching change both in the nature and form of the judicial process".

The purpose for which a public interest litigation is to be entertained by the Court is "succinctly stated in the following words:

"It is thus clear that only a person acting bonafide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under

the colour of PIL brought before the Court for vindicating any personal grievance, deserves rejection at the threshold".

Having stated so, the Apex Court expressed its anguish about the busy bodies, meddle-some interlopers, way farers or officious interveners without any public interest muffling their faces by wearing masks of public interest litigation entering the portals of the Court and observed:

"It is depressing to note that on account of such trumpery proceedings initiated before the Courts innumerable days are wasted which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we are second to none in fostering and developing the newly invented concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from the undue delay in service matters, Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc.- are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddle-some interlopers, way farers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation, and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result to which the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system."

We are conscious of the complex nature of the issue and it is not that easy to indicate in any clear terms as to how the problem of adjusting conflicts between the various aspects of public interest is to be resolved. All developed legal systems are confronted with the problem and a leading authority on Administrative law observed:

"All developed legal systems have had to face the problem of adjusting . conflicts between two aspects of public interest - the desirability of encouraging individual citizens to participate actively in the enforcement of the law, and the undesirability of encouraging the professional litigant and the meddle-some interloper to invoke the jurisdiction of the Courts in matters that do not concern him." SA De Smith: Judicial Review of Administrative Action (4th Edition).

23. In *R. v. Secretary for State Foreign Affairs World Development Movement Ltd.*¹⁷, Rose L.J. while considering the question of Standing in that particular case by a public spirited organisation and after elaborate survey of English Law on the subject indicated factors of significance as to when the rule relating to the Standing could be relaxed by Courts and observed:

"Leaving merits aside for a moment, there seem to me to be a number of factors of significance in the present case: the importance of vindicating the rule of law as Lord Diplock emphasised in *IRC v. National Federation of Self-Employed and Small Business Limited*, (1981) 2 All. ER 93 at 107, (1982) AC 617 at 644; the importance of the issue raised, as in *Ex.P. Child Poverty Action Group*; the likely absence of any other responsible challenger, as in *Ex.P. Child Poverty Action Group* and *Ex.P. Greenpeace Ltd.*; the nature of the breach of duty against which relief is sought (see *IRC v. National Federation of Self Employed and Small Business Ltd.* (1981) 2 All. ER 93 at 96, (1982) AC 617 at 730 per Lord Wilberforce); and the prominent role of these applicants in giving advice, guidance and assistance with regard to aid (see *Ex.P. Child Poverty Action Group* (1981) 1 All. ER 1047 at 1048, (1990) 2 QB 540 at 546). All, in my judgment, point, in the present case, to the conclusion that the applicants here do have a sufficient interest in the matter to which the application relates within Section 31(3) of the 1981 Act and Order 53, Rule 3(7).

It seems pertinent to add this, that if the Divisional Court in *Ex.P. Rees-Mogg* eight years after *Ex.P. Argyll Group* was able to accept that the applicant in that case had standing in the light of his "sincere concern for constitution issues", a fortiori it seems to me that the present applicants, with their national interest in promoting and protecting aid to underdeveloped nations, should have standing in the present application."

We have taken pains in referring to many leading and outstanding Judgments in which the philosophy of public interest litigation is articulated only with a view to highlight that no person can claim any automatic or absolute right to invoke the jurisdiction of this Court even in the matter of a public interest litigation and no one "has a right of the waiver of the locus standi rule". The rules as to standing are not to be found in any statute. They were made by Legal Navigators, they can be changed to meet the need to preserve the Integrity of Rule of Law. The Court has to satisfy to itself the bona fides of the public interest litigant and his genuine concern and special interest in the subject matter and his concern beyond what belongs to any one of the millions of people of this country. Such public interest litigants have to declare in categorical terms that they are not acting at the instance of any third party and satisfy the Court that they have nothing to personally gain in the process.

24. However, different consideration may arise when the enforcement of the fundamental rights and statutory rights of Weaker Sections, human rights are involved. Similarly, the parameters may be totally different in class actions relating to Consumer cases and Aesthetic and Environmental interests, the Court

in such cases would be ever ready to relax the rule regarding standing and reach out to people crying for justice. Complaints from public spirited citizens and social action groups are welcome.

25. Unless such measures as indicated are taken by the Courts, the new dimension added to the judicial process may become an instrument of oppression in the hands of vested interests. The whole concept of PILK in the hands of meddlesome interlopers, way farers, busy bodies and Megalomaniacs, would degenerate into "jurisprudence of Blackmail".

26. In what manner the public interest is evinced by the petitioner in the instant writ petition is required to be stated in their own words. The affidavit filed in support of the writ petition reads as:

"I submit that the subject matter of the writ petition relates to payment of compensation for the land situated in R.S. No. 368/3A being an extent of Ac.1.65 cents of land and N.T.S. No. 368/3A being an extent of Ac.2.88 cents of land situated in Moghalrajapuram village of Vijayawada Urban Mandal, Krishna District. We are all the permanent residents of Vijayawada Municipal Corporation and we have been fighting for the cause of general public and various matters. As the 3rd Respondent herein is being paid the compensation amount for the lands mentioned above though he is not real owner of the property and the public funds are at peril we are constrained to approach this Honourable Court for redressal."

The Petitioners 1,2 and 4 described themselves as residents of Vijayawada and 3rd Petitioner as resident of Hyderabad. Nothing is stated in the affidavit about their avocation and area of interest. Nothing is mentioned in what manner they are interested in the subject matter of the litigation. No mention is made as to what steps they have taken while the two Original petitions referred by Land Acquisition Officer were pending on the file of Principal Subordinate Judge, Vijayawada since 1987. No details whatsoever are mentioned about the relevant facts required for adjudication of this writ petition except alleging that the land belongs to the Government. No research or investigation into the facts were undertaken by them before approaching this Court and invoking the jurisdiction under Article 226 of the Constitution of India. There is no material to satisfy the Court any prominent role played by them in giving any advice, guidance with regard to any public cause. Consequently, we have to spend considerable amount of time in hearing this matter at the cost of others waiting in the queue only to find that there is no truth in the allegations levelled by the petitioners against the respondents and the case being devoid of any merit. Undoubtedly, this was an avoidable exercise in view of the categorical finding by the learned single Judge:

"No intention has been alleged by the petitioner in the writ petition or during the course of arguments as to how the Government and not Respondent No. 3 could be treated as the owner of the disputed land."

Even the observation by the learned single Judge that:

"the petitioners have remained dormant and not rendered any assistance to the Court even during the course of arguments to doubt the legitimacy of the claim advanced by Respondent No. 3."

could not deter the appellants herein to tenaciously pursue this litigation by way of preferring this appeal. The observations by the learned single Judge that:

"the petitioners have themselves rendered disservice to the public cause, by abstaining (sic. abstaining) from rendering any assistance to the Court" had no effect on the appellants herein.

We fully endorse the following observations made by the learned single Judge:

"Public interest litigant owes a duty to the Court to place before the Court such material as may tend to render credibility to the case propounded by them. They would be failing in their duty if this basic elementary requirement was neglected by the public interest litigants. Failure on their part to comply with this elementary requirement exposes the hallowness of the dispute or controversy raised by them and opens a room for raising a belief that the petitioners were motivated more by personal enmity rather than any public cause....."

The fact that the petitioners were not unaware of the fact that reference was made to the Civil Court u/s 18 of the Land Acquisition Act, which become evident from the submissions made on behalf of the petitioners as to what transpired before the Civil Court during the proceedings of the reference u/s 18 of the Act."

The learned single Judge summed up the entire discussion by observing that:

"This kind of callousness to the public cause if at all any such cause was made out, vitiates the genuineness of the allegations made by them in the writ petition. I am therefore, unable to appreciate that there was any justification for arriving at any conclusion that any public cause was involved with regard to payment of compensation or apportionment of compensation so as to entertain the writ petition and to take it to its logical conclusion after taking into consideration the allegations made by the writ petitioners against Respondent No. 3's claim".

We are required to do no more than to whole-heartedly affirm the same.

27. We have adverted ourselves to every aspect of the matter and after deep and careful consideration we find this litigation is not in the nature of public interest litigation to vindicate and effectuate the public interest. It has not served any public purpose except causing hinderance to the 3rd Respondent in realising the fruits of decree granted by a competent Court of Civil jurisdiction. We do not find even a single ray of characteristic of public interest litigation. We are constrained to observe before we depart with the case that obviously there is something more than "what meets the eye".

28. The writ appeal fails and is accordingly dismissed with costs quantified at Rs. 1,000/-.(Rupees, one thousand only).