

(2003) 01 RAJ CK 0042

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1878 of 2002

Ram Chand Tolani

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 30-01-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2003 Raj 213 : (2003) 3 WLC 290

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Advocate : N.S. Acharya, for the Appellant; M.R. Singhvi, B.D. Purohit, K.R. Bishnoi, Anand Purohit and Basudev, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Chauhan, J.—The instant writ petition has been filed for quashing the order dated 19-12-1997, by which the land in dispute had been allotted to the Society and further for quashing the order fixing the rate at Rs. 290/- per square yard for the said land.

2. The facts and circumstances giving rise to this case are that the petitioner claims to be a Member of Sindhi Samaj and has alleged that the allotment of the land in dispute had been made in favour of the Society by the respondent Rajasthan Housing Board vide order dated 19-12-1997 on collusion with the respondents, i.e. office bearers of the Society, the Chairman and other officers of the Rajasthan Housing Board. Relief sought is that the said society be restrained from raising any construction for school or Community Centre. This Court, from time to time, had passed certain interim orders, and earlier had directed that the matter shall be heard finally in Sept., 2002, but for paucity of time, it could not be heard and detailed interim orders had been passed, applications had been filed every day and disposed of by the courts, hence the matter was listed for final hearing on 28-1-2003.

3. Mr. Acharya, learned counsel for the petitioner has submitted that the allotment of land had been made in flagrant violation of the Rajasthan Housing Board (Disposal of Properties) Regulations, 1970 (for short, "the Regulation") and the rate fixed is much less than the rate at which it could have been allotted. The allotment has been made in collusion with the Chairman and other Office-bearers of the Rajasthan Housing Board (for short, "the Board") and it had been made without inviting any application from the public at large of the societies. Moreso, if the land had been allotted for the school, the society cannot be permitted to have the construction raised for community centre first.

4. On the other hand, learned counsel for respondents have submitted that the writ petition itself is not maintainable as the society (allottee of the land) has not been impleaded as a party, office-bearers of the Board, with whose collusion the land had been allotted, have not been impleaded, the Chairman of the Board has been impleaded by name but no specific allegations of mala fide or collusion against him have been made and merely a bald statement that the land had been allotted with his collusion is not enough to hold an inquiry on the issue of mala fide, petitioner had never applied for allotment of the land in dispute or any other land, there is no statutory requirement for inviting the applications for allotment of the land to the society for the purpose of school etc., petitioner has not claimed any relief for himself and he has merely asked for quashing the order of allotment, thus, no legal right of the petitioner has been infringed, moreso, the order of allotment has not been placed on record and what has been put therein is merely the resolution of the Board and not the order of allotment which is sought to be quashed: the society has already invested a huge amount of nearly rupees forty lacs on constructions of school and community centre, the petition has been filed at a belated stage and it suffers from the delay and laches and to settle the political score using the court as a forum, therefore, it amounts to abuse of the process of the Court and as such the petition is liable to be rejected.

5. I have heard the learned counsel for the parties and perused the record.

6. As large number of issues have been raised, it is desirable to deal with them one by one.

(1) Non impleadment of Society-Allottees of the land :--

Admittedly, the society, in whose favour the land stood allotted, has not been impleaded as a party. Large number of other persons, who are office bearers of the society, have been impleaded. But the question does arise as to whether even if the judgment is delivered in favour of the petitioner, would it be binding on the said society and whether in such circumstances, writ petition can be entertained ?

7. Nearly a Constitution Bench of the Hon''ble Supreme Court, in Udit Narain Singh Malpaharia Vs. Additional Member, Board of Revenue, Bihar, has dealt with the issue as to who are the necessary parties, formal parties and proper parties

and held as under :--

"Necessary party is one, without whom no order can be made effectively, a proper party is one, in whose absence an effective order cannot be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding..... Any order that may be issued behind the back of such a party, can be ignored by the said party, Summons must be served on all persons directly affectedThat a party against whom relief is sought, should be named in the petition. It is equally clear that all parties affected by that order should also be necessary parties to the petition It would be against all principles of natural justice to make an order adverse to them behind their back and any order so made could not be effective one. They were, therefore, necessary parties before the High Court."

8. The Apex Court further dealt with the issue as to whether such a necessary party can be permitted to be impleaded at a belated stage and held that if a prayer is made to implead a party at a belated stage, i.e., at the time of final arguments, it must be rejected.

9. The Hon''ble Supreme Court has consistently held that in absence of necessary party, writ petition cannot be entertained. In *Prabodh Verma and Others Vs. State of Uttar Pradesh and Others*, the Hon''ble Supreme Court held that if there are large number of persons who may be adversely affected if an order is passed in favour of the petitioner, few of them must be impleaded in representative capacity if it is not possible to implead all of them, but no order could be passed effectively in absence of such adversely affected persons.

10. In *Bal Niketan Nursery School Vs. Kesari Prasad*, the Hon''ble Supreme Court examined the scope of Order 1. Rule 10 of the Code of Civil Procedure, 1908 and explained the necessity of impleadment of a necessary party, observing that necessary party must be impleaded in the petition otherwise the judgment could not be enforced/executed.

11. In *Ram Swarup and Others Vs. S.N. Maira and Others*, the Apex Court held that if a right has been conferred upon a particular person, it cannot be taken away by the Court as a consequence of litigation between other parties without impleading such an affected person. The Court was dealing with a surplus land allotted to landless persons who had been given possession thereof and the High Court had entertained the writ petition on behalf of the original tenure holder without impleading such allottees. The Hon''ble Supreme Court held that such allottees were necessary parties.

12. Similar view has been reiterated in *Ishwar Singh v. Kuldeep Singh Bhagwanti and Ors. v. Subordinate Services Selection Board, Haryana and Anr.*, 1995 Supp (2) SCC 663, *Central Bank of India Vs. S. Satyam and others*, *J. Jose Dhanapaul Vs. S. Thomas and Others*, *Arun Tiwari v. Zila Mansavi Shikshak Sangh* AIR 1998 SC 331 : (1998 Lab IC 414), *Azhar Hasan and Others Vs. Distt. Judge, Saharanpur and Others*, *Sushma Suri Vs. Govt. of National Capital Territory of*

Delhi and Another, Shri L. Chandrakishore Singh Vs. State of Manipur and Others, and B. Ramanjini and Others Vs. State of Andhra Pradesh and Others,

13. In M.P. Rajya Sahkari Bank Maryadi Vs. Indian Coffee Workers" Co-operative Society Ltd. and Others, the Hon''ble Supreme Court examined a case where the appellants as well as the respondents had been granted lease of plots by the State. Appellants had been granted the same land earlier in time and the said lease stood cancelled and then subsequently regranted. Respondents lease had also been cancelled but restored in a writ petition filed by them in the High Court. The plea had been taken by the appellants that the land granted to the respondents was part of land earlier granted to them. The Court held that the appellants were necessary parties in the petition filed by the respondents earlier as lease could not be granted to the respondents without hearing the appellants in the earlier writ petition.

14. Thus, in view of the above, it is settled legal proposition that any person, who may be adversely affected is a necessary party. Granting any relief to any person, behind the back of the necessary party would amount to a flagrant violation of the principles of natural justice as the person concerned is being deprived of his right without affording him an opportunity of hearing. Mr. Acharya did not consider it proper to make an oral prayer to implead the society at this stage. Petitioner has obtained interim orders from time to time behind the back of the society. I find no force in the submission made by Mr. Acharya that society''s impleadment is not necessary as it is being represented by its office bearers as they can be changed/replaced as per the Constitution/bye-laws of the society. Moreso, the possibility of entering into unholy alliance with the other side cannot be ruled out. The contention is preposterous as similar contention stood rejected by the Hon''ble Supreme Court in Shri Ranjeet Mal Vs. General Manager, Northern Railway, Baroda House, New Delhi and Another, . Thus, the petition is liable to be rejected on this ground alone.

(2) Delay and laches on the part of petitioner.

15. The writ petition has been filed after expiry of four and half years of passing of the alleged impugned order dated 19-12-1997. Petitioner has not considered it proper or desirable to furnish any explanation for such an inordinate delay, nor a statement has been made in the writ petition. The respondents have raised the question of delay and laches while filing the reply on 25-7-2002 and in the rejoinder affidavit, petitioner has submitted that he came to know about the allotment only in the year 2002. He has not disclosed as to how could he know and when exactly he came to know about the said allotment and what was the source of information. The statement made in the rejoinder affidavit seems to be an after thought as the society, of which the petitioner himself is an office-bearer, had been recommending requesting the Board for making allotment of the land in favour of the society since prior to the date of allotment. Thus, it is difficult to hold that petitioner was not aware of the allotment.

16. It is settled law that fence-sitters cannot be allowed to raise the dispute or challenge the validity of the order after its conclusion. Aflatoon and Others Vs. Lt. Governor of Delhi and Others, State of Mysore and Others Vs. V.K. Kangan and Others, Pt. Girdharan Prasad Missair v. State of Bihar (1980) 2 SCC 83 H.D. Vora Vs. State of Maharashtra and Others, Bhoop Singh Vs. Union of India and others, The Ramjas Foundation and Others Vs. Union of India and Others, Ram Chand v. Union of India, (1994) 1 SCC 44 : 1993 AIR SCW 3479 State of Maharashtra Vs. Digambar, Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt Ltd., and others, C. Padma and Others Vs. Dy. Secretary to the Govt. of T.N. and Others, Hindustan Petroleum Corporation Ltd. and Another Vs. Dolly Das, Life Insurance Corporation of India and Others Vs. Jyotish Chandra Biswas, L. Muthukumar and Another Vs. The State of Tamil Nadu and Others, The Municipal Council, Ahmednagar and Another Vs. Shah Hyder Beig and Others, and Inder Jit Gupta and Others Vs. Union of India and Others,

17. The issue of delay in filing the writ petition was considered by the Hon''ble Apex Court in Smt. Sudama Devi Vs. Commissioner and Others, wherein the Apex Court has observed as under :--

"There is no period of limitation prescribed by any law for filing the writ petition under Article 226 of the Constitution. It is, in fact, doubtful whether any such period of limitation can be prescribed by law. In any event, one thing is clear and beyond doubt that no such period of limitation can be laid down either under the rules made by the High Court or by practice. For every case, it would have to be decided on the facts and circumstances whether the petitioner is guilty of laches and that would have to be done without taking into account any specific period as period of limitation. There may be cases where even short delay may be fatal while there may be cases where even a long delay may not be evidence of laches on the part of the petitioner."

18. Similarly, in State of U.P. and Others Vs. Raj Bahadur Singh and Another, the Hon''ble Apex Court held that "there is no time limit for filing the writ petition. All that the Court has to see is whether the laches on the part of the petitioner are such as to disentitle him to the relief claimed by him."

19. In S.K. Mastan Bee Vs. The General Manager, South Central Railway and Another, the Hon''ble Supreme Court held that entitlement of a particular right guaranteed under Article 21 of the Constitution, coupled with the hapless condition of a party may be a ground to entertain a petition even at a belated stage. But that was a case where third party's interest had not crystallised.

20. In Northern Indian Glass Industries Vs. Jaswant Singh and Others, the Hon''ble Apex Court held that the High Court cannot ignore the delay and laches in approaching the writ Court and there must be satisfactory explanation by the petitioner as to how he could not come to the Court well in time.

21. In the instant case, no explanation worth the name has been furnished by the petitioner explaining the delay of more than four and half years. Even in the

rejoinder-affidavit, the exact time of having the knowledge of the order and source of information have not been disclosed. The plea remains unsubstantiated and is not worth credence, therefore the petitioner is not entitled for any relief whatsoever and the petition is liable to be rejected on this count also.

(3) Legal right of petitioner involved :

22. Petitioner has not explained in the writ petition as to what is his legal right which has been infringed or for enforcement of which the petition has been filed.

23. It is settled law that writ petition under Article 226 of the Constitution is maintainable for enforcing the statutory or legal right or when there is a complaint by the petitioner that there is a breach of the statutory duty on the part of the respondents. Therefore, there must be judicially enforceable right for the enforcement of which the writ jurisdiction can be resorted to. The Court can enforce the performance of a statutory duty by public bodies through its writ jurisdiction at the behest of a person, provided such person satisfies the Court that he has a legal right to insist on such performance. The existence of the said right is the condition precedent to invoke the writ jurisdiction. (Vide *The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others*, *Mani Subrat Jain and Others Vs. State of Haryana and Others*, *State of Kerala Vs. Smt. A. Lakshmikutty and others*, *Piyush Kantilal Mehta Vs. Commissioner of Police, Ahmedabad City and Another*, : *Krishan Lal Vs. State of Jammu & Kashmir*, *Utkal University Vs. Dr. Nrusingha Charan Sarangi and Others*, and *State of Punjab Vs. Raghubir Chand Sharma and Another*,

24. In *Rajendra Singh Vs. State of Madhya Pradesh and others*, it has been held that even violation of each and every provision of law does not furnish a ground for the writ Court to interfere and if it is shown that substantial compliance of law has been made and unless it is shown that violation of law has caused substantial prejudice to the rights of the petitioner, no interference is called for. Similar view has been taken by Hon''ble Supreme Court in *Rani Laxmibai Kshetriya Vs. Chand Behari Kapoor and Others*,

25. In *Ghulam Quadir v. Special Tribunal* AIR 2001 SCW 4022 the Hon''ble Supreme Court held that writ petition is maintainable only if a person can satisfy the Court that his statutory right is likely to be adversely affected by the impugned action, otherwise not.

26. Thus, it is settled legal proposition that mere violation of any law does not confer any right upon a person to approach the Court. He has to satisfy the Court that his statutory or legally enforceable right or legally protected right has been infringed. In the instant case, petitioner has not stated any where as to what was his legal right which has been infringed, how he is interested in the litigation or he had applied for allotment of the land in dispute or could have applied in future. Mr. Acharya could not point out any provision under the said Regulations that the applications have to be invited by advertisement or issuing public notice in the news papers etc. for allotment of land to society for charitable purpose or

for constructing community centre, hospital or school. The case is to be considered on a different footing than that of allotment of land to an individual for residential, commercial or industrial purpose. Mr. Acharya could not point out any provision which stood violated and that violation has caused any prejudice to the petitioner.

27. Petitioner has claimed only for quashing the alleged impugned order dated 19-12-1997 but has not asked that after quashing the said allotment order the land should be allotted to him, or the respondents be directed to consider his application for allotment, nor he has stated that he had ever made an application for allotment.

28. It is settled legal proposition that the writ Court should not entertain a petition where no relief can be granted. (Vide Kumari Chitra Ghosh and Another Vs. Union of India (UOI) and Others, State of Uttar Pradesh Vs. Om Prakash Gupta, Dr. N.C. Singhal Vs. Union of India (UOI) and Others, S.L. Kapoor Vs. Jagmohan and Others, and Dr. (Smt.) Daksha Sankhala v. JNV University RLW 2001 (2) 1035).

29. In Khalid Hussain (Minor), Represented by Father Dr. Akthar Hussain Vs. Commissioner and Secretary to Government of Tamil Nadu, Health Department, Madras and Ors, , the Apex Court dealt with a similar case and observed as under :--

"..... In the facts and circumstances of the case, exercising its discretionary power under Article 226 of the Constitution at the instance of the petitioner, he was not entitled to any relief..... was wrong..... It is not obligatory for the Court to interfere in all cases unless justice of the case so demands."

30. In the instant case, as petitioner has not claimed any relief for himself nor he has made any submission that after quashing the said allotment the land in dispute be allotted to him or to any other society, he is not entitled for any relief.

(4) Allegation of Mala fides :

31. In this writ petition, a very bald statement has been made that the land had been allotted to the society with the collusion of the Chairman of the Board Shri Man Singh Deora and the Deputy Commissioner. The Deputy Commissioner has not been impleaded by name nor it is known as to who was the Deputy Secretary at the time of allotment. Thus, the Court cannot ask a person to file return to those allegations. Even against the Chairman, no details have been furnished as to how could he be in collusion. (Vide J.M. Banawalikar v. Municipal Corporation, Delhi, AIR 1996 SC 326 : 1996 Lab IC 215 State of Bihar and Another Vs. P.P. Sharma, IAS and Another, I.K. Mishra Vs. Union of India and Others, and All India State Bank Officers' Federation and Others Vs. Union of India (UOI) and Others,

32. Allegations made by the petitioner against Mr. Yadav are of such a nature which do not warrant any inquiry on the issue for the reason that the same are

not specific and fall short for making any inquiry in this regard. The issue of "malus animus" was considered in *Tara Chand Khatri v. Municipal Corporation of Delhi* AIR 1977 SC 467, wherein the Hon''ble Supreme Court has held that the High Court would be justified in refusing to carry on investigation into the allegation of mala fides, if necessary particulars of the charge making out a prima facie case are not given in the writ petition and burden of establishing mala fide lies very heavily on the person who alleges it and there must be sufficient material to establish malus animus.

33. Similarly, in *E.P. Royappa Vs. State of Tamil Nadu and Another*, the Hon''ble Supreme Court observed as under :--

"Secondly, we must not also overlook that the burden of establishing mala fides is very heavy on the person who alleges it..... The Court would, therefore, be slow to draw dubious inferences from incomplete facts placed before it by a party, particularly when the imputations are grave and they are made against the holder of an office which has a high responsibility in the administration. Such is the judicial perspective in evaluating charges of unworthy conduct against ministers and other, not because of any special status..... but because otherwise, functioning effectively would become difficult in a democracy."

34. The Hon''ble Supreme Court, in *Sukhwinder Pal Bipan Kumar and Others Vs. State of Punjab and Others*, and *Shivajirao Nilangekar Patil Vs. Dr Mahesh Madhav Gosavi and Others*, has made similar observations.

35. In *M. Sankaranarayanan, IAS Vs. State of Karnataka and others*, the Hon''ble Supreme Court observed that the Court may "draw a reasonable inference of mala fide from the facts pleaded and established. But such inference must be based on factual matrix and such factual matrix cannot remain in the realm of institution, surmise or conjecture."

36. In *N.K. Singh Vs. Union of India and others*, the Hon''ble Supreme Court has held that "the inference of mala fides should be drawn by reading in between the lines and taking into account the attendant circumstances."

37. There has to be very strong and convincing evidence to establish the allegations of mala fides specifically alleged in the petition as the same cannot merely be presumed. The presumption is in favour of the bona fides of the order unless contradicted by acceptable material. (*Vide State of U.P. v. Dr. V.N. Prasad* 1995 2 SCC 151 *Arvind Dattatraya Dhande Vs. State of Maharashtra and others*, *Utkal University Vs. Dr. Nrusingha Charan Sarangi and Others*, *Utkal University Vs. Dr. Nrusingha Charan Sarangi and Others*, , *Kiran Gupta and Others Vs. State of U.P. and Others Etc.*, and *Netai Bag and Others Vs. The State of West Bengal and Others*,

38. In *State of Punjab v. V.K. Khanna*, (2001) 2 SCC 330 : AIR 2001 SC 343 the Hon''ble Apex Court examined the issue of bias and mala, fide, observing as under :--"Whereas fairness is synonymous with reasonableness -- bias stands

included within the attributes and broader purview of the word "malice" which in common acceptation means and implies "spite" or "ill will". One redeeming feature in the matter of attributing bias or malice and is now well settled that mere general statements will not be sufficient for the purposes of indication of ill will. There must be cogent evidence available on record to come to the conclusion as to whether in fact, there was existing a bias or a mala fide move which results in the miscarriage of justice..... In almost all legal inquiries, "intention as distinguished from motive is the all-important factor and in common parlance a malicious act stands equated with an intentional act without just cause or excuse."

39. Similar view has been reiterated in M/s. Samant and Another Vs. Bombay Stock Exchange and Others,

40. Petitioner was supposed to plead and prove the allegations against the said respondents in a proper manner.

41. It is settled proposition of law that a party has to plead the case and produce/ adduce sufficient evidence to substantiate his submissions made in the petition and in case the pleadings are not complete, the Court is under no obligation to entertain the pleas. In Bharat Singh and Others Vs. State of Haryana and Others, the Hon^{ble} Supreme Court has observed as under :--

"In our opinion, when a point, which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or the counter-affidavit, as the case may be, the Court will not entertain the point. There is a distinction between a hearing under the CPC and a writ petition or a counter-affidavit. While in a pleading, i.e. a plaint or written statement, the facts and not the evidence are required to be pleaded. In a writ petition or in the counter-affidavit, not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it."

42. Similar view has been reiterated in M/s. Larsen and Toubro Ltd. Vs. State of Gujarat and Others, National Buildings Construction Corporation Vs. S. Raghunathan and Others, Ram Narain Arora Vs. Asha Rani and Others, Smt. Chitra Kumari etc. Vs. Union of India and Others, and State of U.P. and Others Vs. Chandra Prakash Pandey and Others Etc.,

43. In M/s. Atul Castings Ltd. Vs. Bawa Gurvachan Singh, the Hon^{ble} Apex Court observed as under :--

The findings in the absence of necessary pleadings and supporting evidence cannot be sustained in law."

Similar view has been reiterated in Vithal N. Shetti v. Prakash N. Rudrakar (2003) 1 SCC 18.

45. In the instant case, as the petitioner has not made any pleading in this respect nor the then Deputy Commissioner has been impleaded by name, pleas of mala fides are not worth entertaining.

(5) Impugned order not filed:

46. It has been submitted that vide order dated 19-12-97, the land had illegally been allotted to the said society and quashing of said order has been specifically prayed for. Admittedly, the said order is not a part of the record. After filing the writ petition, however before its hearing, a resolution of the Board for making the allotment in favour of the society, has been placed on record but the order as such has not been placed on record. Thus, the question does arise as to whether writ petition can be entertained and the impugned order dated 19-12-97 can be quashed if it is not a part of the record?

47. It is settled proposition of law that unless the order under challenge is filed and placed on record, the Court has no power to quash the same. In *Surinder Singh Vs. Central Government and Others*, the Hon"ble Supreme Court has held that the High Court cannot pass an order in such a case in absence of the impugned order being on record. The Apex Court observed as under :--

"In absence of order under challenge, the High Court could not quash the same. Normally whenever an order of the Government or some authority is impugned before the High Court under Article 226 of the Constitution, copy of the order must be produced before it. In absence of impugned order it would not be possible to assign the reasons which have impelled the authority to pass the order. It is therefore, improper to quash an order which is not produced before the High Court in a proceeding under Article 226 of the Constitution."

48. Similar view has been taken by this Court without referring to the said judgment in *Gautam Lal v. State of Rajasthan* 1999 (1) Raj LW 505.

49. Undoubtedly, the resolution for making the allotment in favour of the society cannot be termed as an order of allotment, even then petition is not liable to be rejected on this count for the reason that the resolution of the Board is the basic order in favour of the society. Court can mould the prayer, Moreso, if resolution is quashed, allotment order, being merely consequential, would not survive.

50. In *P. Chitharanja Menon and Others Vs. A. Balakrishnan and Others*, the Hon"ble Supreme Court held that in absence of challenge to the basic order, subsequent order cannot be challenged.

51. Similar view has been reiterated in *Roshan Lal and Others Vs. International Airport Authority of India and Others*, wherein the petitions were primarily confined to the seniority list and the Apex Court held that challenge to appointment orders could not be entertained because of inordinate delay and in absence of the same, validity of consequential seniority cannot be examined. In such a case, a party is under a legal obligation to challenge the basic order and if and only if the same is found to be wrong, consequential orders may be

examined.

52. In H.V. Pardasani and Others Vs. Union of India (UOI) and Others, the Apex Court observed that if "petitioners are not able to establish that the determination of their seniority is wrong and they have been prejudiced by such adverse determination, their ultimate claim to promotion would, in deed, not succeed."

53. Thus, in view of the above, the contention raised by respondents in this regard is not worth merit and is hereby rejected.

54. In sum and substance, the legal position can be summarised as that the petitioner must make proper pleadings; explain as to how he has locus standi and which of his legal right has been infringed, furnish an explanation for delay, if any; implead the necessary party; and to implead by name the persons against whom the allegations of mala fides are made.

55. The case requires to be considered in the light of the aforesaid settled legal proposition. There is nothing on record to show that there has been under-hand dealing or the society is going to use the land for the purpose other than the community centre and school or the office-bearers would use the property for their personal use. The land has not been allotted in violation of any statutory provision. The documents filed by the respondents show that the society has spent a huge amount, i.e. about forty lacs in the construction of the building for community centre and school. The work had started much earlier and could have been at the verge of completion by now had this litigation been not there. Thus, the bona fides of the society or its office-bearers cannot be doubted.

56. Petitioner failed to show as to what was his legal right, for the enforcement of which he has approached this Court, nor could he show his locus standi to maintain the petition. Petition is not maintainable as the society i.e. the allottee of the land, has not been impleaded. Impleadment of its office-bearers as respondents does not meet the requirement of the law. Petitioner miserably failed to explain the inordinate delay of more than four and half years. He has not claimed any relief for himself, thus, the bona fides of the petitioner are doubted.

57. Petitioner has not approached this Court with clean hands, clean mind and clean objective, which every petitioner is supposed to do. (Vide the K.R. Srinivas Vs. R.M. Premchand and Others, The conduct of the petitioner has been such that it not only makes him disentitled for any relief, rather it requires disapproval.

58. In view of the above, the petition is devoid of any merit and accordingly dismissed. Interim orders passed from time to time stand vacated. There shall be no order as to costs.