

(2006) 07 OHC CK 0057

In the Orissa High Court

Case No : Writ Petition (C) No. 5544 of 2005

Sri Artatrana Singh Deo

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 17-07-2006

Acts Referred:

Citation : (2006) 102 CLT 292 : (2006) 1 OLR 1017 Supp

Hon'ble Judges : Sujit Barman Roy, C.J;M.M. Das, J

Bench : Division Bench

Advocate : H.S. Mishra and R.K. Sarangi Additional Government Advocate, for the Appellant;

Final Decision : Dismissed

Judgement

M.M. Das, J.—In this writ petition filed in the nature of Public Interest Litigation, the petitioner, namely, Shri Artatrana Singh Deo, though has impleaded the State as an opp. party, but has sought for eviction of encroachers over plot Nos. 1495 and 1501 of Bolangir Nazul under Khata No. 4 of the Settlement of the Year 1936, which" according to the petitioner, is to an extent of Ac. 1.533 decimals and corresponds to plot No. 58 and other plots of holding Nos. 182, 831, 832 and 833 of Bolangir (kha) of the current settlement. The petitioner has further sought for restraining the private opp. parties 2 to 7 from effecting any transfer/ alienation over the aforementioned land and has also sought for a direction to the opp. party No. 1 to dispose of the Ceiling Proceedings on the Orissa Land Reforms Act stated to be pending against the opp. parties 2 to 7 within a stipulated time.

2. Parties to this writ petition have exchanged their affidavits and when the matter was taken up for hearing, learned Counsel for the State as well as learned Counsel appearing for the opp. parties 2 to 7 vehemently argued that the writ petition should be dismissed at the threshold as the same cannot be maintained as a Public Interest Litigation. They further raised a plea that there is no element of Public Interest involved in the writ petition and the petitioner has been set up

by the unsuccessful plaintiff in a suit bearing T.S. No. 20 of 2002 which was filed by the Youth Club, Bolangir to set aside the decree passed in a previously instituted suit, i.e., T.S. No. 19 of 1980 under which title to the properties involved in the present writ petition was declared in favour of the predecessor in interest of the opp. parties 2 to 7 of the writ petition. The opp. parties have further raised the question of delay and laches in filing the present writ petition.

3. In the *The Printers (Mysore) Ltd. Vs. M.A. Rasheed and Others*, , the Supreme Court has held that a Public Interest Litigation challenging an allotment of land and execution of a deed of sale, beyond three years, should have been dismissed by the High Court on the ground of delay and laches. The Supreme Court further held that the High Court should consider the plea that the petitioner has been set up by certain interested persons and should determine the same at the out set before entertaining the application as a Public Interest Litigation.

4. Considering the submissions, we heard the learned Counsel for the parties only on the question of maintainability of this writ petition as Public Interest Litigation (in short "PIL").

5. The petitioner in paragraph-3 of the writ petition has claimed to be a public spirited person who devotes his time in the service of the people of the locality for all round developments of the district. He also claims to be a member of the Indian National Congress (a political party) and further claims to be aware of the entire history of merger of Patna State with the Union of India and the lands which were conceded by the Government of Orissa to be personal land of late R.N. Singh Deo who was the last ruler of the Patna State. The petitioner has asserted that the properties involved in the writ petition were claimed by late R.N. Singh Deo to be his personal properties for which a Commission of Enquiry headed by late G.C. Das, a retired Judge of this Court who was appointed by the Government, who submitted his report declaring that the land involved in this Case belonged to the State. The other allegations made in the writ petition disclose that the petitioner has made an attempt to show that the properties involved in the writ petition belonged to the State Government and the ex-Maharaja had no right, title and interest over the said properties. According to the petitioner, many persons have encroached different portions of the aforesaid land for which encroachment proceedings have been initiated against them. During the settlement operation, which continued from 1967 to 1976, due to the political influence of Late R.N. Singh Deo, he got his name recorded in the R.O.R. and taking advantage of such wrong entry, the opp. parties 2 to 7 have executed several sale deeds alienating portions of the above properties. In paragraph-16 of the writ petition, the petitioner has averred regarding the fate of T.S. No. 79 of 1990 filed by one of the purchaser of a portion of the land in question in which the Court by its Judgment dated 25.7.1992 held that the said land belongs to the State. However, in T.S. No. 19 of 1980, the same Court in its Judgment dated 11.5.1990 passed a decree in favour of the plaintiffs thereon, i.e., one Raj Raj Singh Deo and the opp. party No. 2 holding that the said plaintiffs have right,

title and interest over the said properties. Various other disputes with regard to the said land, according to the petitioner, have been raised and some of them are pending under the provisions of the Orissa land Reforms Act. The petitioner also submits that T.S. No. 20 of 2002 was filed by the Youth Club, Bolangir for setting aside the decree passed in T.S. No. 19 of 1980, We, however, do not feel it necessary to enter into various other factual allegations made by the petitioner with regard to the title over the properties in question as we have confined ourselves to the question of maintainability of this petition as PIL.

6. Separate counter affidavits have been filed by the State as well as opp. parties 2 to 7 denying the allegations made in the writ petition. It has been specifically averred in the counter affidavit filed on behalf of the State that there is no iota of the public interest involved in the writ petition and the pleadings of the petitioner are not only vague but also clearly discloses that the petitioner has been set up by the unsuccessful parties in various proceedings pending or decided with respect to the land in question, The fact that the properties belong to the State Government has been specifically denied by the State.

7. The question of delay and laches in filing the present writ petition, which in effect, is to do away with various rights exercised by the opp. parties 2 to 7 over their immovable properties which are brought to the fold of this writ petition has been raised by the opp. parties 2 to 7 in their counter affidavit.

8. Mr. H.S. Mishra, learned Counsel for the petitioner contended that the ex-ruler of Bolangir State, namely, Late R.N. Singh Deo being a very influential political leader holding the post of the Chief Minister of the State, for a certain period, managed to record the land in question in his name as his private properties though the said land belonged to the State and, therefore, the petitioner who is a public spirited person, in order to protect the properties of the State which has been fraudulently recorded in the name of the opp. parties 2 to 7 Late R.N. Singh Deo during the last settlement operation, the petitioner has come up with this Public Interest Litigation.

9. Mr. P.K. Mohanty, Learned Addl. Government Advocate appearing on behalf of the State, submitted that the pleadings as disclosed in the writ petition being vague, frivolous and vexatious, the present writ petition should be dismissed at the threshold as not maintainable as a PIL. He further contended that since the question of right, title and interest over the immovable properties has been raised by the petitioner and it has been admitted that the properties in question were in dispute in previous suits pending before the appropriate Civil Court, the only inference that can be drawn is that the petitioner has been set up by the unsuccessful parties in the said litigations. Mr. M. Kanungo and Mr. Manas Mohaptra, learned Counsel appearing on behalf of opp. parties 2 to 7 relying upon various decisions of the Supreme Court submitted that the writ petition involves no element of public interest and should be dismissed on the ground of delay and laches as well as on the ground that it discloses no cause of action.

10. In the Case of Printers (Mysore) Ltd. (supra), the Supreme Court, with regard to question of delay and laches, while dealing with the case relating to setting aside of a sale deed with respect to the land allotted by the Bangalore Development Authority in favour of the appellant in the said case, after noting the contention of the appellant, that in the writ petition filed before the High Court in the nature of Public Interest Litigation, a plea was taken by the appellant that the said writ petition was filed at the instance of the unsuccessful party in a previously instituted case and the writ petitioner had no locus standi to file the above writ petition, held that the writ petition should not have been entertained keeping in view the fact that it was filed about three years after making of the allotment and execution of the sale deed and the High Court should" have dismissed the writ petition on the ground of delay and laches. The Supreme Court further held that in a Public Interest Litigation when a plea that the petitioner has been set up by certain interested persons, is raised, the Court should determine the same. In the case of Ashok Kumar Pandey Vs. The State of West Bengal and Others, the Supreme Court by referring to various previous decisions of the said Court held that a time has come to weed put the petitions, which though titled as Public Interest Litigations are in essence something else. The Supreme Court further noted that the Courts are flooded with a large number of so-called Public Interest Litigations where even a minuscule percentage can legitimately be called Public Interest Litigation, With grave concern, the Supreme Court observed that though parameters of Public Interest Litigation have been indicated by it in large number of cases, yet, unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which could be otherwise utilized for disposal of genuine cases.

11. Again in the case of Dattaraj Nathuji Thaware Vs. State of Maharashtra and Others, , while dealing with a Public Interest Litigation, it has been laid down by the Supreme Court as follows:

11. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless-allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busybodies or meddling interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Public, through they have no interest of the public or even of their own to protect.

12. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social Interest and public good. [See State of Maharashtra and Others Vs. Prabhu, , and Andhra Pradesh State Financial Corporation Vs. M/s. GAR Re-Rolling Mills and another, No litigant has a right to unlimited draught on the Court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as licence to file misconceived and frivolous petitions. [See Dr. Buddhi Kota Subbarao Vs. K.Parasaran and others, . Today people rush to Courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in Courts and among the Public.

12. In the Case of S.P. Gupta Vs. President of India and Others, it was categorically held that relaxation of the Rule of locus standi in the field of Public Interest Litigation does not give any right to a busy body or meddlesome interloper to approach the Court under the guise of a public interest litigant. The Supreme Court cautioned that the Court must be careful to see that the petitioner who approaches the Court in cases of this kind, is acting bona fide and not for personal gain or private motive or political motivation and/ or other oblique consideration and the Court must not allow its process to be abused by politician and Ors. to delay legitimate administrative action or to gain political objectives.

13. In the Case of Gurpal Singh v. State of Punjab and Ors. 100 (2005) CLT 275 (SC), the Supreme Court has further cautioned that Courts must do justice by promotion of good faith and prevent law from crafty invasions. The Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions (See also State of Maharashtra and Others Vs. Prabhu, and Dr. Buddhi Kota Subbarao Vs. K.Parasaran and others, .

14. After repeated pronouncements of the Supreme Court in a catena of decisions, a Public Interest Litigation is no more an enigma. No doubt in Public Interest Litigation, vigilant citizens of the country can find inexpensive legal remedy to undo injustice to the public at large and attention of the Courts can be drawn for achieving results especially in the fields of human rights, consumer welfare and environment. But, however, it is now well-known that in course of development of this branch of law, namely, Public Interest Litigation, its pitfalls and drawbacks have also been uncovered. Many petitioners come-forward with applications styling the same as Public Interest Litigation only with the avowed purpose of harassing the adversary and also finding the same to be a handy tool, without much investment, to negotiate with the victims of stay orders obtained in the so-called Public Interest Litigation. Like a weapon meant for defence, a PIL can be used equally effectively for offence. Lowering of the locus standi will only

permit privately motivated interests to pose as public interests. It is naive to mention that the abuse of Public Interest Litigation has become very rampant than its use and genuine cases of this nature have either receded to the background or began to be viewed with the suspicion generated by spurious causes mooted by privately motivated interests in the disguise of so-called public interests.

15. Keeping in view the ratio of various decisions of the Apex court with regard to the maintainability of a Public Interest Litigation and applying the principles laid down in the said decisions to the facts of the present case, we are unable to resist ourselves from concluding that in the instant case, the petitioner has in fact, raised questions with regard to right, title and interest over the immovable properties of the opp. parties 2 to 7 which were admittedly subject-matter of dispute in previously instituted suits and, in our view, the petition does not contain any element of public interest. Further, since the challenge, though given the colour of a PIL, is in fact, with regard to recording of the name of the predecessor- in interest of the opp. Parties 2 to 7 in the rerecord of rights during the last settlement operation. It appears to us that a family feud is brought before this Court in the present writ petition styling the same as a Public Interest Litigation and that too much after such recoding was made in the record of rights during the last settlement which was admittedly concluded in 1976. It is also seen that even though the Petitioner had knowledge about all previous litigations involving the properties in question and also knew that the Record of Rights with respect to the suit land were prepared in the name of the predecessor- in interest of the opp. parties 2 to 7 and/or in their names, during the last settlement operation, which was concluded in the Year 1976 and the petitioner claims himself to be a vigilant public spirited person, he has taken no steps for correction of such records for the last three decades. In view of the above, we also hold that the writ petition is liable to be rejected on the ground of delay and laches. Further, it would be seen from the admitted facts that after T.S. No. 19 of 1980 was decreed in favour of the plaintiffs in the said suit i.e. one Raj Raj Singh Deo and the present opp. party No. 2, declaring their right, title and interest over the land in question, T.S. No. 20 of 2002 was filed by the Youth Club, Bolangir to set aside the judgment and decree passed in T.S. No. 19 of 1980, which is stated to be pending and the fact that the decree in T.S. No. 19 of 1980 was put to execution in Execution case No. 18 of 1994 in which an application for stay of the execution Case was filed by the judgment debtors which being rejected, the said order was challenged before this Court in W.P. (C) No. 1927 of 2005 which was dismissed by this Court on 6.4.2005 and the present Writ petition has been filed immediately thereafter i.e. on 25.4.2005. On appreciation of the above facts, it can be legitimately inferred that the petitioner being set up by the unsuccessful parties in the above litigation has come up with the present writ petition filed in guise of a Public Interest Litigation though on facts it is clearly revealed to be a "Personal Interest Litigation".

16. In view of the above conclusions, we hold the writ petition to be not

maintainable as a Public Interest Litigation and dismiss the same.

Sujit Barman Roy, C.J.

17. I agree.