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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11285/2022

NEW RISE FOUNDATION REGD. CHARITABLE TRUST

..... Petitioner

Through: Mr. Prakash Chandra Dwivedi,
Advocate

versus

MUNICIPAL CORPORATION DELHI AND ORS..... Respondents

Through: Mr. Ajay Diggpaul, CGSC with
Mr.Kamal Diggpaul and Ms. Swati
Kwatra, Advs.

Mr. Sunil Fernandes, Standing
Counsel, BSES-RPL with
Mr.Shubham Sharma and
Ms.Muskan, Advs.

Ms. Sanjana Nangia for Mr. Sameer
Vashisht, Adv. for R-3 to R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

29.07.2022

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1. The petitioner before this Court – New Rise Foundation Regd. Charitable Trust represented through Mr. Sumit Sejwal, Managing Trustee, has filed the present Public Interest Litigation (PIL) stating that the petitioner is a charitable trust which provides shelter to orphan children. It provides food to poor, handicapped and other downtrodden people.

2. The petitioner's contention is that an unauthorised/ illegal structure is

in existence in Neb Sarai, Delhi admeasuring 600 sq. yards. It has been stated that the petitioner has made various representations to various authorities, however, the respondents in the present petition have not taken any steps in respect of unauthorised/ illegal structure and, therefore, the present PIL has been filed.

3. Learned Counsel for the MCD, at the outset, has informed this Court that it is nobody's case that the MCD is not taking any action against the unauthorised constructions and as and when any information concerning unauthorised/ illegal constructions is brought to their notice, they are taking action with quite promptitude. He has stated before this Court that the Petitioner NGO is, in fact, involved in blackmailing the builders and other people and the noble object for which the NGO was formed is not being looked into by the NGO at all, except blackmailing others. He has further stated that the same writ petitioner represented by the same counsel has earlier also filed a Writ Petition i.e. W.P.(C) No. 9150/2022 and when the matter was taken up on 02.06.2022, the Division Bench was inclined to impose cost as it was a frivolous Writ Petition. This Bench thereafter, permitted the writ petitioner to withdraw the Writ Petition and it was dismissed as withdrawn. The order dated 02.06.2022 is reproduced as under:

*“After some arguments, learned counsel for petitioner seeks leave to withdraw the petition.
The petition is dismissed as withdrawn.”*

4. Learned Counsel for the Petitioner when confronted with the aforesaid situation has, in open Court, admitted that the property involved in the present Writ Petition was certainly the property involved in the earlier

Public Interest Writ Petition i.e. W.P.(C) No. 9150/2022 and he has not mentioned the factum of filing of the earlier Writ Petition in the present PIL.

5. It is very unfortunate that the noble forum of PIL is now being used for blackmailing the citizens. This is not a PIL at all. It is, in fact, a litigation based upon certain photographs resulting in blackmailing type of litigation.

6. The suppression of facts has been admitted before this Court and it is a settled proposition of law that a person who does not come with clean hands and suppresses material facts is not entitled for any relief whatsoever. The Petitioner otherwise also wants a roving enquiry to be done based upon some photographs and there is no other evidence brought on record to arrive at a conclusion that the structure in question is an unauthorised construction.

7. The Apex Court in the case of ***K.D. Sharma Vs. SAIL***, (2008) 12 SCC 481, has held in paragraph 34 as follows:

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

8. In the light of the aforesaid judgment, as there is suppression of material fact on the part of the petitioner, the petition deserves to be dismissed at the threshold without considering the merits of the claim.

9. The Apex Court in the case of ***Prestige Lights Ltd. Vs. SBI***, (2007) 8

SCC 449, has held in paragraphs 33 & 35 as follows:

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

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35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a writ court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, the court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible.”

10. In the aforesaid case, it has been held that when a party approaches a Court, he must place all facts before the Court without any reservation and in case there is suppression of material facts, the writ petition deserves to be dismissed without entering into the merits of the matter.

11. In the present case, the petitioner has deliberately suppressed the factum of filing of the earlier writ petition, i.e. W.P.(C) No. 9150/2022

which was in respect of the same property, and therefore, the petition deserves to be dismissed.

12. In the case of *Dalip Singh Vs. State of U.P.*, (2010) 2 SCC 114, the Hon'ble Supreme Court in paragraphs 2 and 24 has held as under:

“2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

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24. From what we have mentioned above, it is clear that in this case efforts to mislead the authorities and the courts have transmitted through three generations and the conduct of the appellant and his son to mislead the High Court and this Court cannot, but be treated as reprehensible. They belong to the category of persons who not only attempt, but succeed in polluting the course of justice. Therefore, we do not find any justification to interfere with the order under challenge or entertain the appellant's prayer for setting aside the orders passed by the prescribed authority and the appellate authority.”

13. The Apex Court in the aforesaid case has held that a litigant who attempts to pollute the stream of justice, or who touches the pure fountain of justice with tainted hands, is not entitled to any relief – interim or final.

14. The petitioner NGO has certainly not come with clean hands. The attempt on the part of the petitioner is nothing but an attempt to blackmail others, and therefore, the petitioner suppressed the fact of filing of the earlier

petition. Therefore, the present petition deserves to be dismissed in the light of the aforesaid judgment.

15. The Apex Court in the case of *Amar Singh Vs. Union of India*, (2011) 7 SCC 69, has held in paragraphs 50 & 53 as under:

“50. This Court wants to make it clear that an action at law is not a game of chess. A litigant who comes to Court and invokes its writ jurisdiction must come with clean hands. He cannot prevaricate and take inconsistent positions.

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53. Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts. Courts held that such litigants have come with “unclean hands” and are not entitled to be heard on the merits of their case.”

16. The Apex Court has again dealt with a litigant who does not disclose full facts and who approached the Court with unclean hands.

17. The misuse of Public Interest Litigation has been considered by the Hon’ble Supreme Court in the case of *Janata Dal Vs. H.S. Chowdhary*, (1992) 4 SCC 305. Paragraph 98 of the aforesaid judgment reads as under:

“98. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly-developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddling interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration.”

18. The Hon’ble Supreme Court in the aforesaid case has held that the forum of approaching Courts by way of newly developed Doctrine of Public

Interest Litigation should not be permitted to be abused, and in the considered opinion of this Court, the petition is nothing but sheer abuse of the Doctrine of Public Interest Litigation, and therefore, deserves to be dismissed.

19. The Apex Court in the case of ***Dattaraj Nathujithaware Vs. State of Maharashtra***, (2005) 1 SCC 590, has held in paragraph 15 as under:

“15. 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 v. Prabhu [(1994) 2 SCC 481 : 1994 SCC (L&S) 676 : (1994) 27 ATC 116] and A.P. State Financial Corpn. v. GAR Re-Rolling Mills [(1994) 2 SCC 647 : AIR 1994 SC 2151] .) 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 a licence to file misconceived and frivolous petitions. [See Buddhi Kota Subbarao (Dr.) v. K. Parasaran [(1996) 5 SCC 530 : 1996 SCC (Cri) 1038 : JT (1996) 7 SC 235] .] 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.”

20. The Apex Court in the case of ***Tehseen Poonawalla Vs. Union of India***, (2018) 6 SCC 72, has held in paragraph 98 as under:

“98. The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This Court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals

against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.”

21. The Hon’ble Supreme Court in the aforesaid case has shown concern about misuse of Public Interest Litigation and has also shown concern about the large number of Public Interest Litigations which have flooded the High Courts and the Hon’ble Supreme Court. It has been held by the Hon’ble Supreme Court that personal scores, personal disputes and political rivalries should not be resolved through PIL.

22. In the considered opinion of this Court, the present petition is nothing but a sheer abuse of the process of law and therefore, this Court is of the opinion that the present petition deserves to be dismissed at admission stage itself with costs of Rs.10,00,000/- (Rupees Ten Lakhs) to be paid to the

Army War Widows Fund within a period of 30 days from today.

23. It is made clear that if the amount is not paid within 30 days from today, the Sub-Divisional Magistrate, Saket will recover the amount as arrears of land revenue and shall transfer the same to the Army War Widows Fund with intimation to the Registrar General of this Court.

24. The Registrar General shall monitor the recovery as ordered by this Court. The Petitioner shall appear before the Registrar General for reporting compliance on 02.09.2022.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JULY 29, 2022/*N.Khanna*