

Ramsharan Autyanuprasi and Another

Vs

Union of India and Others

Writ Petition (Civil) No. 442 of 1988

(S. Ranganathan, Sabyasachi Mukharji JJ)

14.11.1988

JUDGMENT

SABYASACHI MUKHARJI, J. –

1. This is a petition under Article 32 of the Constitution, filed by Ramsharan Autyanuprasi and Vijendra Singh. They assert that it is public interest litigation. This petition was addressed to one of the learned Judges of this Court by name.
2. The petitioners state that they wanted to bring to the notice of the Judge the total disarray caused by the arbitrary and high-handed running of the premier institution of ancient art, culture and history in Rajasthan, namely, the "Sawai Man Singh II Museum Trust" by its Chairman Lt. Col. Sawai Bhawani Singh. They further state that since they are the concerned citizens of the State and the country, it is their duty to seek court's intervention in this matter. It is asserted that in Jaipur, Rajasthan, the Maharaja Sawai Man Singh matter. It is asserted that in Jaipur, Rajasthan, the Maharaja Sawai Man Singh II Museum Trust had been created by late Maharaja Sawai Man Singh as Public Trust and the same was registered as a Public Trust under the provisions of the Rajasthan Public Trust Act, 1959(Rajasthan Act 42 of 1959).
3. The petitioners state that Lt. General Maharaja Rajendra Maharaj Dhiraj Sawai Man Singh of Jaipur and his predecessors, rulers of erstwhile Jaipur State had founded the museum for the benefit of the public, in a portion of the City Palace, Jaipur and this museum has a large number of items of value and is being used for the benefit of the public of the State of Jaipur and by visitors to that State. Hence, Lt. General His Highness Maharaja Sawai Man Singh II, Maharaja of Jaipur had dedicated and declared the State museum along with all the collections constituted therein and an additional sum of Rs. 1 lakh after relinquishing all personal rights, title and interest therein and vested the same in favour of the trustees as owners thereof, to have and hold the same upon Trust for the benefit of all inhabitants of Jaipur and for the visitors to Jaipur irrespective of caste, creed or religion, giving them right to have access to and be at liberty to use the museum with powers to manage, maintain, protect, promote, preserve, augment and improve the State museum. It is stated that he did this by executing a proper deed of indenture and registering the same. The Trust so created was named "His Highness Maharaja of Jaipur Museum Trust" and was expressly declared to be irrevocable the late Maharaja having relinquished his own interest totally, reserving no rights or powers by the settlor.
4. Clause 33 which is not necessary for the purpose of this litigation, of the indenture of Trust made this position very clear. The original trustees in the said Trust included the Settlor, Rajmata Gayatri Devi, Shri Sir V. T. Krishnamachari, His Highness Maharaja Bhim Singh of Kota, Shri Brij Mohan

Birla, Shri Radha Krishnan Chamaria and Shri G. C. Chatterjee in his capacity as the Vice-Chancellor of the Rajasthan University. In the petition it was further stated that the Settlor, Maharaja Sewai Man Singh breathed his last on June, 24, 1970 and in his place Lt. Col. Sawai Bhawani Singh, son of the late Maharaja became one of the trustees of the above named Trust.

5. After the death of Maharaja, the name of the Trust was changed as "Maharaja Sawai Man Singh II Museum Trust". During the course of time the trust body changed as certain members came and went, and finally at the relevant time when the petition was presented, the Board of Trustees, it was alleged, consisted of the following :

1. Rajmata Gayatri Devi of Jaipur,
2. His Highness Maharaj Bhim Singh of Kota,
3. Shri R. P. Agarwal,
4. Lt. Col. Sawai Bhawani Singh,
5. Shri Dharam Vira,
6. Dr. Prem Kirpal and
7. Dr. K. C. Agarwal.

6. However, it appears that the step-mother, namely, Rajmata Gayatri Devi and the step-son Lt. Col. Sawai Bhawani Singh did not pull on well, so there were disputes and differences regarding the conduct and the management of the said Trust. The petitioners in the petition allege that Lt. Col. Sawai Bhawani Singh purported to act as settlor and had suddenly started acting in a high-handed and arbitrary manner when in a cavalier fashion, he tried to relieve Rajmata Gayatri Devi. An appropriate proceeding was filed by Rajmata instituting in the Court of the District Judge, Jaipur. It is further stated in the petition that Lt. Col. Bhawani Singh thereafter tried to remove Mr. Dharma Vira and Dr. R. C. Agarwal and appointed in their place his own wife Mrs. Padmini Devi and one another person by the name of Rajeev Sethi in the Trust as additional trustees who, according to the petitioners, were appointed totally ignoring the procedure laid down for the appointment of trustees.

7. The petitioners further state that Lt. Col. Sawai Bhawani Singh had started Acting in the manner totally detrimental to the interest of the Trust and against the public of Jaipur, who were greatly shocked. It was stated as follows :

However, it added that the Board of Trustees has by unanimous resolution already decided to dispose of Atish Market etc., a very valuable property of the Trust in the heart of Jaipur city, possibly to some of his cohorts. No notice as such of the said resolution was given or any resolution referred to, nor made apparent. It is quite apparent that the man describing himself as his general power of attorney would not be doing so for Lt. Col. Bhawani Singh as a trustee of the Museum Trust, as that is an ex-officio in position Bhawani Singh holds and is not partable or usable by any attorney. The whole act reeks of mala fides and appears to be the work of a warped minded whose sole intent and purpose seems to be to bring down the high ideals of the great and honourable family of Jaipur. Sir, Your Lordship on behalf of the people of Jaipur, nay, on behalf of the people of

Rajasthan and the country as a whole, we beg of you, to intervene in the matter, appoint some knowledgeable and a person of character and dignity as Chairman of the Sawai Man Singh II Museum Trust so that the properties of the Trust are not frittered away to the detriment of the interests of the State and the country which, when it loses these fabulous works of importance and priceless would not find them elsewhere.

8. In the premises the petitioners prayed that the Trust be run by some Board of Trustees barring, however, Lt. Col. Bhawani Singh pending disposal of the application; and that an early action be taken to do away with the high-handedness and arbitrary actions of Lt. Col. Bhawani Singh and his agents.

9. Upon this application being moved, it appears that a bench of this Court on April 27, 1988 issued notice and pending the notice, issued an order of injunction restraining the trustees from alienating any of the assets of the Museum Trust in any manner. Thereafter, on September 13, 1988 in view of the assertion made before the court that the valuable items from the museum are being clandestinely removed, the District Judge of Jaipur was directed to appoint one person from his establishment who should ensure that nothing is removed from the museum without the leave of this Court. There were further applications made and now this application has come up for final disposal.

10. As mentioned hereinbefore, the petitioners assert that it is a public interest litigation. Counsel for the petitioner stated before us that his clients' right to life as enjoined under Article 21 of the Constitution had been infringed. He further drew our attention to Article 49 of the Constitution which casts a duty on the State to protect every monument or place or object of artistic or historic interest (declared by or under law made by Parliament) to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be. He also referred to Article 51-A(f) of the Constitution. The allegations in the petition are disputed seriously in the counter-affidavit filed on behalf of respondents 5 and 6 by one Dr. A. S. Paul s/o Mr B. S. Paul. In the rejoinder affidavit it was further alleged that Razanama and the Ramayan manuscripts prepared by Emperor Akbar which are considered as national treasures and some of the rarest manuscripts of Soordas, astronomical manuscripts of Sawai Jai Singh, Bhagwat Puran and the paintings dating back to Moghul times, and also the rarest textiles and costumes, arms and weapons set with valuable jewels, inter alia, were not there in the museum at the time of moving this application.

11. At the outset, it may be stated that Mr. Sachar, learned counsel for the respondents on the instructions of his clients, Dr. A. S. Paul, who is present in the court assured this Court that the said items are there. It appears that there are serious disputes about the running of Trust between the heirs of the erstwhile Jaipur Raj family, some supporting the present Lt. Col. Sawai Bhawani Singh and others supporting Rajmata Gayatri Devi. There are several litigation between the parties in different courts in Rajasthan over those matters.

12. In the aforesaid view of matter we are of the opinion that the petition under Article 32 of the Constitution is not maintainable. On the facts as appearing from to pleadings it cannot be predicated that there is any breach of any fundamental right of the petitioners. We are fortified by this conclusion by the fact that in view of the nature of the allegations made in the present context, it is a case which is more amendable to be proceeded under Sections 37 and 38 of the Rajasthan Public Trust Act, 1959, as amended from time to time. These provisions correspond, more or less, to Sections 91 and 92 of the Code of Civil Procedure.

13. It appears to us, further, that it would be highly improper to consider this litigation to be a public interest litigation as it is litigation between the members of the erstwhile Raj family to settle their own scores. It is not pro bono publico, for the benefit of the public, for the benefit of the public, but for the benefit of a particular section of people for their personal rights. Hence, the assertion that this dispute is a public interest dispute, is wrong. The petitioner has asserted that there is violation of Article 21 of the Constitution, which enshrines protection of life and personal liberty and states that no person shall be deprived of his life or personal liberty save according to the procedure established by law. It is true that life in its expanded horizons today includes all that give meaning to a man's life including his tradition, culture and heritage and protection of that heritage in its full measure would certainly come within the compass of an expanded concept of Article 21 of the Constitution. Yet, when one seeks relief for breach of Article 21, one must confine oneself to some direct, overt and tangible act which threatens the fullness of his life or the lives of others in the community.

14. In the instant case the allegations are too vague, too indirect and too tenuous to threaten the quality of life of people at large or any section of the people. The acts complained of resulting in the threats alleged are too remote and, in our opinion, to be amenable under Article 32 of the Constitution. The petitioners further assert that there has been violation of Article 51-A(f) of the Constitution as a duty has been cast on every citizen to value and preserve the rich heritage of our composite culture. Indeed, it is our duty but the enforcement of that duty by means of a writ under Article 32 of the Constitution, in the facts and circumstances of this case, is not warranted. In this case there was no evidence evidencing that any attempt had been made to ask the State to protect any monument or any application had been made to the State seeking intervention and action.

15. In that view of the matter, resort of Article 49 was no just. We think that invocation of the jurisdiction of this Court as a public interest litigation, in the background of the allegation made in the petition and in the context of this case, was wholly unjustified. Public interest litigation is an instrument for the administration of justice to be used properly in proper cases. Public interest litigation does not mean settling disputes between individual parties. This Court in *Bandhua Mukti Morcha v. Union of India* dealt with this question and Justice Bhagwati, as the learned Chief Justice then was, 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, economic and political justice which is the signature tune of our Constitution. He reiterated that the court entertain public interest litigation, not in a cavilling spirit or in a confrontational mood or with a view to tilting at executive authority or seeking to usurp it, but its attempt is only to ensure observance of social and economic rescue programmes, legislative as well as executive, framed for the benefit of the have-nots and the handicapped and to protect them against violation of their basic human rights, which is also the constitutional obligation of the executive. In the same decision it was observed by Justice Pathak, as the learned Chief Justice then was, that public interest litigation in its present form constitutes a new chapter in our judicial system, acquiring a significant degree of importance in the jurisprudence practised by our courts. The learned Judge deprecated individual communications and suggested that all communication and petitions invoking the jurisdiction of the court, must be addressed to the entire court, that is to say, the Chief Justice and, his companion judges. Judged by that standard, this petition does not seek to advance any public right. It seeks to exploit private grievances. Indeed, in a situation of this nature it is well to bear in mind the observations of the tailpieces in the decision in *Sachindanand Pandey v. State of West Bengal*, where the learned Judges highlighted the necessity to delineate the parameters of public interest litigation. The learned Judge noted that today public spirited litigants rush to courts to file cases in

profusion under this attractive name. They must, however, inspire confidence in courts and among the public, and must be above suspicion. Hence, it is imperative to lay down clear guidelines and outline the correct parameters for entertaining such petitions. If courts do not restrict the free flow of such cases in the name of public interest litigation, the traditional litigation along with justice will suffer. 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 petition and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. The learned Judge in the context of that case ended his judgment with a question : "Is there something more than what meets the eye in this case?" The answer in the instant case is obvious - there is very much more than what meets the eye in the instant case before us. This application must, therefore, fail and is accordingly dismissed.

</html