
Mahesh Prasad Agarwal Vs Registrar, Firms, Societies and Chits and Others

Writ Petition No. 1158 (M/S) of 2012

Court: Allahabad High Court (Lucknow Bench)

Date of Decision: Jan. 21, 2014

Acts Referred:

Constitution of India, 1950 – Article 226#Partnership Act, 1932 – Section 29, 43, 70, 72

Citation: (2014) 2 ADJ 462 : (2014) 103 ALR 120 : (2014) 122 RD 795

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

Bench: Single Bench

Judgement

S.S. Chauhan, J.

This writ petition has been filed for quashing of the orders dated 5.3.2010, 8.9.2003, 7.1.2004 and 10.1.2004. The

petitioner happens to be the partner of M/s. Dwarika Prasad Agarwal and Brothers (hereinafter referred to as "the Firm") and he has all along

opposed to the induction of Smt. Kishori Devi Agarwal, Smt. Hemlata Agarwal and Anil Kaushik. Initially the Firm was constituted on 10.4.1972,

with four members, namely, Dwarika Prasad Agarwal, Bishamber Dayal Agarwal, Mahesh Prasad Agarwal and Ramesh Chandra Agarwal and

the same was registered as "not the member of HUF" in Form-I on 15.11.1976. In the year 1983 Dwarika Prasad Agarwal suffered a major

paralytic attack and fell seriously ill and thereafter in the year 1984 certain differences arose between Dwarika Prasad Agarwal, his brothers and

his son. On 13.3.1985 an agreement was entered by means of which the business of the firm was transferred to M/s. Writer & Publishers Private

Limited, which was signed by the petitioner in lieu of certain amount. The said agreement was put to challenge in Civil Suit No. 57A of 1987 by

Late Bishamber Dayal Agarwal. On 25.11.1987 petitioner gave a notice for dissolution of the partnership u/s 43 of the Indian Partnership Act,

1932 (for short the Act"), whereupon M/s. Writers & Publishers Private Limited through opposite party No. 5 filed Civil Suit No. 74-A before the

Court of Additional District judge-I, Bhopal for declaration of title and perpetual injunction in favour of the aforesaid company. Thereafter, another

Civil Suit bearing No. 75-A of 1987 was filed before the Court of Additional District Judge-I, Bhopal on 30.11.1987 by Ramesh Chandra

Agarwal against all partners of firm for the dissolution of the Firm, Rendition of Accounts and appointment of Receiver. During the pendency of the

aforesaid suits, writ petition was filed by Bishambhar Dayal Agarwal before the Jabalpur High Court, wherein a compromise was entered into

between the opposite party No. 5, Bishamber Dayal Agarwal and the petitioner alongwith their sons, namely, Kailash Agarwal, Sudhir Agarwal

and Sanjay Agarwal on 29.6.1992 before the High Court at Jabalpur, pursuant to which all the pending suits were dismissed as withdrawn and

consequently thereof Registrar Newspaper of India altered the name of the owner of title "Dainik Bhaskar" in his register from the Firm M/s.

Dwarika Prasad Agarwal and Bothers to M/s. Writers Publishers Limited, Bhopal vide order dated 3.9.1992. Thereafter, Dwarika Prasad

Agarwal moved an application for recall of the order dated 29.6.1992 before the High Court at Jabalpur, which was dismissed on 13.11.1992.

The aforesaid order was subjected to challenge before the Apex Court by Dwarika Prasad Agarwal in Civil Appeal No. 4782-83 of 1996 and by

Bishambhar Dayal Agarwal Writ Petition No. 527 of 1993. It is to be noted that during the pendency of the civil appeal before the Apex Court

Dwarika Prasad Agarwal died on 20.7.1993 and both the wives of Dwarika Prasad Agarwal, namely Smt. Kasturi Devi (first wife) and Smt.

Kishori Devi (second wife) moved an application for substitution. The application moved by Smt. Kishori Devi was allowed and she was

substituted in place of Dwarika Prasad Agarwal alongwith her daughters, namely, Hemlata and Anuradha and Smt. Kasturi Devi (first wife) was

directed to be impleaded as respondent. The Apex Court finally allowed the appeal vide judgment and order dated 7.7.2003 and relegated the

parties to the original position i.e. before 29.6.1992. The petitioner thereafter moved a complaint on 17.7.2003 before the Registrar stating therein

that reconstitution of the firm dated 2.3.1996 may be stayed forthwith and Form No-VII may be cancelled. The said complaint was transferred to

the Deputy Registrar, Meerut who stayed the amendment dated 2.3.1996 vide order dated 19.7.2003. After coming to know about the said

order, Smt. Hemlata Agarwal moved a complaint to call for the record before the Registrar and thereafter entire records were summoned by the

Registrar and further proceedings were conducted by him. Smt. Hemlata Agarwal brought to the notice of the Registrar that the Apex Court

rendered the judgment on 7.7.2003, as such the said application was not maintainable. The Registrar thereafter passed an order on 8.9.2003

declaring the change in the partnership dated 2.3.1996 as void. Feeling aggrieved with the said order, Smt. Hemlata Agarwal preferred a review

application, whereupon the order dated 8.9.2003 was stayed for one and a half month by the Registrar vide order dated 20.10.2003. Thereafter,

the review application was finally dismissed vide order dated 7.1.2004 and while passing the said order, the Registrar further proceeded by

passing the orders for initiation of action u/s 70 of the Act against Smt. Hemlata Agarwal and Smt. Kishori Devi amongst others. On 19.12.2003

opposite party No. 5 filed a suit bearing No. 298-A of 2003 in Bhopal for declaration and permanent injunction, in which an interim order was

granted in his favour on 31.1.2004 and ultimately when steps were not taken despite repeated directions, the suit was dismissed in default for non-

compliance of taking steps on 30.10.2006. In the meantime, Smt. Kishori Devi, opposite party No. 4 has also preferred Writ Petition No. 2996

(M/S) of 2004, Dwarika Prasad Agarwal and another v. Registrar, Firms, Societies and Chits Limited and others and in the said writ petition, the

petitioner has been arrayed as opposite party. The petitioner has stated that on account of ill health and bona fide trust on opposite party No. 5

during the period from 2003 to 2006, he has signed certain blank papers and given to opposite party No. 5, which were obtained on the premise

of requirement for filling before various authorities for the purposes of the Firm and the said signed blank papers have been misused by the

opposite party No. 5 for the purposes of instituting frivolous and false proceedings before opposite parties No. 1, 2 and 3. It has also been stated

by the petitioner that he does not remember that he had ever filed such a complaint against the heirs of Dwarika Prasad Agarwal. He was under

the influence of Ramesh Chandra Agarwal as such he put his signature on the blank papers which have been used before the different judicial

forums just to infringe the legitimate rights and interest of the heirs of Dwarika Prasad Agarwal, who have been contesting the litigations started by

her late husband for the partnership firm. The petitioner tried his level best for pursuing family members for settling the dispute outside the Court as

being elder member of the family and he also stated by way of an affidavit of remorse that the contesting heirs of Late Dwarika Prasad Agarwal

would get substantial justice. Opposite party No. 4, Smt. Kishori Devi Agarwal preferred Civil Suit bearing No. 1663 of 2011 before the High

Court at Delhi claiming declaration. It is to be noted that petitioner alongwith Smt. Kishori Devi and Smt. Hemlata Agarwal entered into a deed of

assignment on 24.2.2010 and he has preferred this writ petition on 22.2.2012. The change of stand has been taken by the petitioner, therefore, this

petition has been filed by him challenging the orders dated 5.3.2010, 8.9.2003, 7.1.2004 and 10.1.2004. It is from this stage, that the petitioner

has changed his stand and joined hands with opposite party No. 4 and started litigating against opposite party No. 5, as such he moved the recall

application. The impugned orders were passed and the change in the partnership firm dated 2.3.1996 was cancelled. Hence this petition.

2. Submission of learned counsel for the petitioner is that petitioner being elder member of the family, desires that there may be compromise

between the parties, so that entire family may live in peace and so with that point of view, he came forward with a specific stand that he has not

moved the application dated 17.7.2003, but in fact he has signed some blank papers between 2003-2006 on account of his ill health under bona

fide trust in opposite party No. 5 and those papers were misused by him by moving the said complaint dated 17.7.2003 and those papers were

used before other judicial forums. It is also submitted that petitioner does not remember that he had filed any such complaint against the heirs of

Dwarika Prasad Agarwal and as he has been under the influence of opposite party No. 5, he put his signatures on blank papers. It is further

submitted that wisdom has prevailed with the petitioner and he being the elder member of the family, does not want any further litigation and so he

has proceeded to file this writ petition challenging the orders dated 5.3.2010, 8.9.2003, 7.1.2004 and 10.1.2004 though some of the said orders

have been challenged in Writ Petition No. 2996 (M/S) of 2004 by M/s. Dwarika Prasad Agarwal through Smt. Kishore Devi, opposite party No.

4. Submission is that once the petitioner has denied the moving of the compliant, which was the basis for passing of the orders, then the entire

orders are liable to be quashed. Apart from it, all the legal points which have been raised in Writ Petition No. 2996 (M/S) of 2004, have also been

argued and adopted by counsel for the petitioner in this petition.

3. In support of his contention, counsel for the petitioner has relied upon the judgment rendered by this Court in the following cases:

Bhola Nath Vs. Mt. Kaso Devi and Others,

A.V. Papayya Sastry and Others Vs. Government of A.P. and Others, ;

Lokesh Dhawan v. Union of India and others, AIR 2004 Del 26;

Meghmala and Others Vs. G. Narasimha Reddy and Others, ;

Bhaurao Dagdu Paralkar Vs. State of Maharashtra and Others, ;

4. Counsel for the opposite party No. 5, on the other hand, has submitted that stand taken by the petitioner has not changed for some good

achievement, but in fact has changed on account of certain underhand settlement between opposite party No. 4, Smt. Hemlata Agarwal and the

petitioner. He also submitted that as and when the deal was struck upon between the aforesaid persons, an application was moved supported by

an affidavit dated 7.10.2009, wherein the petitioner resiled from the stand taken earlier by him and made a prayer for recall of the aforesaid

orders. It is submitted that the stand which has been taken by the petitioner, is an after thought and is a concerted move not on account of the

change of wisdom or change of mind as being the elder member of the family, but in fact it has happened on account of certain underhand

agreement which was finalised between the parties on 24.2.2010 by way of deed of assignment. It has further been submitted that the deed of

assignment specifically indicates that Rupees One Crore has been accepted by Smt. Kishori Devi, Hemlata Agarwal and the petitioner and his son,

namely, Sanjay Agarwal and that is why being confident of the aforesaid deal with Suresh N. Vijay, he surreptitiously in collusion with opposite

party No. 4 and others, moved the aforesaid recall application. The assignment deed is a substantial proof of the aforesaid fact regarding the

change of stand by the petitioner. It is also submitted that the affidavit which has been filed, is altogether an outcome of the hidden agreement

entered into by the petitioner with opposite party No. 4 and others. The petitioner has moved the affidavit on 7.10.2009 alongwith representation

for recalling the orders dated 8.9.2003 and 7.1.2004, but he did not opt to challenge the said orders before this Court and he has waited up till

22.2.2012 to challenge the aforesaid orders though the latest order was passed on 5.3.2010. Submission is that there has been delay of about two

years and the said delay has not been explained by the petitioner and neither any reasonable and plausible explanation has been given to approach

this Court at a belated stage. The petitioner was won over by opposite party No. 4 and others on the basis of deed of assignment and in spite of

filing of the present writ petition for challenging the aforesaid orders, the petitioner has also filed Original Suit No. 646 of 2012, Mahesh Prasad

Agarwal v. M/s. Writers & Publications Private Limited, for declaration in the Court of Civil Judge (SD), Jhansi, wherein a prayer was made that

all the income derived from the advertisements from Dainik Bhaskar daily newspaper may be declared as property of the firm and he may be given

30% share out of the income. Learned counsel submits that petitioner, therefore, claims himself to be the partner of the firm. The second writ

petition for the same cause of action is not maintainable though he has challenged the same orders in this petition except one. The petitioner is

already party in the earlier writ petition bearing No. 2996 (M/S) of 2004 as opposite party No. 4 and it is a gross misuse of process of the Court.

He submits that much time of the Court has been wasted in arguing the matter though this writ petition has been filed challenging orders impugned

in the earlier writ petition in addition to one more order, which has been passed after filing of the earlier writ petition, therefore, this petition would

not be maintainable. The petitioner has lost his right to maintain the writ petition after the deed of assignment dated 24.2.2010. Moreover, the

assignee has not come forward to challenge or get himself impleaded. The petitioner has joined hands with Smt. Hemlata Agarwal and Sanjay

Agarwal and has received rupees one crore jointly in lieu of assignment deed and, therefore, they have lost their interest in the firm as contemplated

u/s 29 of the Act, as such the writ petition is liable to be dismissed. He has also submitted that no reliance can be placed on such a litigant, who is

continuously changing his stand and is not certain as to which party is on the right side. He has also referred to Chapter XXII, Rule 2 of the Rules

of the Court in regard to maintainability of second writ petition. He has also placed reliance upon the decision of the Apex Court rendered in the

case of Sarguja Transport Service Vs. State Transport Appellate Tribunal, M.P., Gwalior and Others, .

5. Counsel for the opposite party No. 5 has also placed reliance upon Section 29 of the Act and has contended that transferee will have no right to

interfere in the conduct of the business, or to require accounts, or to inspect the books of the firm, but entitles the transferee only to receive the

share of profits of the transferring partner, and the transferee shall accept the account of profits agreed to by the parties.

6. In support of his contention, he has placed reliance upon the judgment rendered by this Court in the case of Bhola Nath (supra).

7. I have heard counsel for the parties and perused the record.

8. The sole controversy centres around the fact is as to whether the version of the petitioner has to be accepted as correct or that it has to be

accepted as an after thought. The petitioner has put forward his claim basically on the assumption that he being the elder member of the family,

thought it proper that the parties may resolve the dispute amicably among themselves outside the Court and, therefore, he laid his support for the

peace of the family. The stand taken by the petitioner has come forward for the first time in this writ petition and through an affidavit dated

7.10.2009, wherein a concocted story has been set up by the petitioner that he was suffering from ill health between 2003-06 and he has reposed

bona fide trust on opposite party No. 5 and signed some blank papers and gave those papers to him, which papers were obtained from him on the

premise that they will be needed for filing applications etc. before various authorities for the purposes of firm and in due course of time, the said

blank signed papers have been misused by the opposite party No. 5 for the purpose of instituting frivolous and false complaint before opposite

party No. 3. The petitioner has also denied the moving of any complaint against the heirs of Dwarika Prasad Agarwal and it has also been stated

by him that he has been under the undue influence of Ramesh Chandra Agarwal, as such he put his signatures on the blank papers.

9. Whether the story set up by the petitioner can be believed when such a long drawn litigation has prevailed between the parties starting from filing

of the civil suits and thereafter the suits having attained finality by way of compromise before the High Court at Jabalpur by means of compromise

dated 29.6.1992, which compromise was set aside by the Apex Court by means of judgment and order dated 7.7.2003 and at no point of time

any such complaint was made by the petitioner, but in fact the petitioner has been contesting the proceedings before the High Court at Jabalpur as

well as before the Apex Court, so it cannot be said that it came to his knowledge in 2009 that all the signed blank papers were misused by the

opposite party No. 5, as the petitioner appears to a very clever person and that is why he has taken shelter to the fact that he was suffering from ill

health between 2003-06 and during this period, he has signed certain blank papers and that has been stated only with a particular view that he has

not moved the application for cancellation of the entry made on 2.3.1996 by means of complaint dated 17.7.2003. The proceedings commenced

on his behest for cancellation of entry, which was made illegally behind the back of opposite party No. 5 and against the petitioner as well. The

procedure as contemplated under the Act was not followed for making induction of partners and neither any publication was made as required u/s

72 of the Act in the Gazette and in the absence of that, the Registrar came to the conclusion that change in the partnership was made illegally. The

petitioner has not raised any grievance even after 2003 when he moved the complaint on 17.7.2003 to indicate that wisdom prevailed with him.

On 7.10.2009 he filed an affidavit in support of the application withdrawing from his earlier stand. This appears to have happened with the

petitioner as some underhand deal was struck between the petitioner and opposite party No. 4 and others as a deed of assignment was finally

entered on 24.2.2010 for a sum of Rupees One Crore, out of which Rs. 50 lakhs were received by the petitioner and his son Sanjay Agarwal and

Rs. 50 lakhs were received by opposite party No. 4 and Smt. Hemlata Agarwal. The cards are very clear and the case set up by the petitioner

that on account of ill health he signed certain blank papers, cannot be accepted and the record reveals that he withdrew from his earlier stand on

account of the fact that deed of assignment was under finalisation on 24.2.2010. After the assignment has been made by the petitioner, whether he

would be able to maintain this writ petition. Reference has been made by the petitioner to Section 29 of the Act. Section 29 of the Act which

provides that after assignment, the transferee cannot interfere in the conduct of the business, or to require accounts, or to inspect the books of the

firm, but he shall only be entitled to receive the share of the profits of the transferring partner. The said section does not speak anything about the

status of the assignee after the assignment has been made. Once the petitioner has been made the assignment, the right to receive profit in the firm

accrues in favour of the assignee and, therefore, the right of the petitioner to maintain the writ petition, in the opinion of the Court, appears to have

accrued in his favour to the limited extent.

10. Reliance has been placed by the counsel for the petitioner on the case of Bhola Nath (supra). In the said case, the facts were that the

partnership property was sold in a suit for dissolution of the partnership and the transferee including a charge holder of a partner's interest wanted

to give the property of the partnership in the hands of the purchaser. There in those very circumstances, it was held that the transferee's interest

attaches to the proceeds which are in the hands of the receiver after payments of all the debts and liabilities of the partnership. The Court while

considering the right of the partners held that every co-owner can say with respect to his share that he is the proprietor of that share with the result

that qua his share he has an absolute right to dispose of it in any way he likes. His share in the property can be transferred or charged by him and

can be sold in execution of a decree against him. The rights of the partners, however, qua the partnership property are different and after meeting

all the liabilities of the partnership with the consequence that a partner cannot transfer or charge a share in a particular item of the partnership

property, nor can that particular property be attached and sold in execution of a decree against a particular partner as apart from a decree against

the whole partnership.

11. After going through the said judgment, it is clear that right of the partner to transfer or charge by him can be sold in execution of decree against

him or not. Therefore, the aforesaid case does not come to the rescue of the petitioner.

12. The petitioner has already filed a suit for declaration in the Court of Civil Judge (SD), Jhansi, on 5.10.2012, wherein a prayer was made that

all the income derived from the advertisements from Dainik Bhaskar daily newspaper may be declared as property of Dwarika Prasad Agarwal &

Brothers and he may be given 30% share out of the sale. The suit has been filed after filing of this writ petition on 22.2.2012. The conduct of the

petitioner goes to indicate that after filing this writ petition, he has filed the suit as well though in the assignment deed, he has transferred everything

to Suresh N. Vijay on 24.2.2010 in respect of the Partnership Firm, M/s. Dwarika Prasad Agarwal & Brothers as well as in M/s. Bhaskar

Publication and Allied Industries Pvt. Ltd. and M/s. Bhaskar Graphics & Printing Arts Pvt. Ltd. Companies incorporated under the Companies

Act, 1956 as also regarding right, title and interest in the other properties owned by Late Shri Dwarika Prasad Agarwal. Locus of the petitioner,

therefore, has to be judged in the light of the fact that once he has made assignment and has transferred his share, in the firm to assignee, whether

he can maintain the writ petition after assignment to the limited extent of partnership specially in the wake of the fact that other partners have not

supported. The right in favour of the assignee is in respect of share and receiving of profits only. The question of locus standi has been considered

by the Apex Court in the case of Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others, . The relevant portion of the

judgment is quoted below:

This Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226,

an applicant should ordinarily be one who has a personal or individual right in the subject-matter of the application, though in the case of some of

the writs like habeas corpus or quo warranto this rule is relaxed or modified. In other words, as a general rule, infringement of some legal right or

prejudice to some legal interest in hearing the petitioner is necessary to give him a locus standi in the matter. (see The State of Orissa Vs. Madan

Gopal Rungta, ; The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others, ; Ram Umeshwari Suthoo v. Member,

Board of Revenue, Orissa, (1967) 1 SCA 413; Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others, ; State of Orissa and

Others Vs. Rajasaheb Chandanmull Indrakumar (P) Ltd. and Others, ; Dr. Satyanarayana Sinha Vs. S. Lal and Company (P) Ltd., .

The expression ""ordinarily"" indicates that this is not a cast-iron rule. It is flexible enough to take in those cases where the applicant has been

prejudicially affected by an act or omission of an authority, even though he has no proprietary or even a fiduciary interest in the subject-matter.

That apart, in exceptional cases even a stranger or a person who was not a party to the proceedings before the authority, but has a substantial and

genuine interest in the subject-matter of the proceedings will be covered by this rule. The principles enunciated in the English cases noticed above,

are not inconsistent with it.

In the United States of America, also, the law on the point is substantially the same.

No matter how seriously infringement of the Constitution may be called into question, said Justice Frankfurter in Coleman v. Miller, (1939) 307

US 433, this is not the tribunal for its challenge except by those who have some specialized interest of their own to vindicate apart from a political

concern which belongs to all.

To have a ""standing to sue"", which means locus standi to ask for relief in a Court independently of a statutory remedy, the plaintiff must show that

he is injured, that is, subjected to or threatened with a legal wrong. Courts can intervene only where legal rights are invaded Chapman v. Sheridan

Wyoming Coal Co., 338 US 621. ""Legal wrong"" requires a judicially enforceable right and the touch stone to justiciability is injury to a legally

protected right. A nominal or a highly speculative adverse affect American Jurisprudence Vol. 2d. ss 575, p.334; Joint Anti-Fascist Refugee

Committee vs. McGrath, 341 US 123) on the interest or right of a person has been held to be insufficient to give him the ""standing to sue"" for

judicial review of administrative action [United States Cane Sugar Refiners" Asson. v. McNutt, 138 F 2nd 116: 158 ALR 849). Again the

adverse affect"" requisite for ""standing to sue"" must be an ""illegal effect"" (United States v. Storer Broadcasting Co., 351 US 192). Thus, in the

under mentioned cases, it was held that injury resulting from lawful competition, not being a legal wrong, cannot furnish a ""standing to sue"" for

judicial relief (Kansas City Power & Light Co. v. McKay, 350 US 884).

In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of a legal right. He has not sustained

injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, much less does it wrongfully affect

his title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. He "has no legal peg for" a justifiable claim

to hang on. Therefore he is not a "person aggrieved" and has no locus standi to challenge the grant of the No-objection Certificate.

13. The petitioner's interest is not being effected in any manner by virtue of the orders passed by the Registrar, but in fact his interest stands

protected by virtue of the aforesaid orders. Apart from it, Smt. Kishori Devi has also filed a suit in the High Court at Delhi bearing No. 1611 of

2011 for declaration. The petitioner can claim his right in the suit filed by him. It appears that the petitioner joined hands for vested interest with

opposite party No. 4, as a result thereof he has changed his stand and filed the present writ petition. The finding recorded by the Registrar goes to

indicate that his version has not been accepted and it has been found that it was a concocted version on his part. The petitioner is already a party in

Writ Petition No. 2996 (M/S) of 2004.

14. Learned counsel for the petitioner has also argued that fraud has been committed by opposite party No. 5 by misusing the blank papers signed

by the petitioner.

15. In the given facts and circumstances, it has to be seen as to who has committed fraud and if the blank papers were misused by the opposite

party No. 5, then whether at any point of time any legal proceedings were initiated by the petitioner; whether any FIR was lodged by him; whether

any complaint was made to any authority at any point of time except the application which has been moved after understanding was arrived at in

regard to deed of assignment between the petitioner, opposite party No. 4 and others. The petitioner has rather committed perjury from resiling his

earlier stand, which was taken by him right from 1987 and onwards up till 2009. Even after assignment, he has also fled a suit for declaration in the

Court of Civil Judge (SD), Jhansi The aforesaid case laws which have been cited by the counsel for the petitioner, do not come to rescue of the

petitioner and rather they apply against the petitioner in respect of forgery and the petitioner rather committed fraud upon the Court by moving the

application and then by filing the affidavit before this Court as stated hereinabove changing his stand.

16. Looking to the entire facts and circumstances of the case and all documents on record, the stand taken by the petitioner cannot be accepted.

The petitioner has grossly misused the process of the Court by filing the present writ petition. The present writ petition has been argued for about

two months on various dates and valuable time of the Court has been wasted. Frivolous litigation at the instance of the petitioner has to be curbed

and this view finds support by the law laid down by the Apex Court in the following cases:

Rameshwari Devi and Others Vs. Nirmala Devi and Others, ;

Centre for Public Interest Litigation and Others Vs. Union of India (UOI) and Others, ;

(2013) 7 SCC 416 ;

A. Shanmugam Vs. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam Represented by Its President etc., ;

Indian Council for Enviro-Legal Action Vs. Union of India (UOI) and Others, ;

Ram Krishna Verma and Others Vs. State of U.P. and Others, ;

Mrs. Kavita Trehan and another Vs. Balsara Hygiene Products Ltd., ;

M/s. Marshall Sons and Co. (I) Ltd. Vs. M/s. Sahi Oretans (P) Ltd. and Another, ;

Padmawati and Others Vs. Harijan Sewak Sangh, ;

South Eastern Coalfields Ltd. Vs. State of M.P. and Others, ;

Zafar Khan and Others Vs. Board of Revenue, U.P. and Others, .

17. For changing his stand, the petitioner is also liable for perjury and such litigants have to be dealt with iron hand. In view of the aforesaid facts, I

do not find any merit in this writ petition. It is accordingly dismissed with a exemplary cost. The cost is quantified as Rs. 1 lakh.