

ALEEMUDDIN

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v.

STATE OF UTTAR PRADESH AND OTHERS

(Civil Appeal No. 11703 of 2018)

NOVEMBER 30, 2018

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**[DR. DHANANJAYA Y CHANDRACHUD AND
M. R. SHAH, JJ.]**

Public Interest Litigation: Misuse of – On facts, in a PIL filed before the High Court by fifth respondent, the State Government was issued directions to take necessary steps to establish a new Tehsil building for the District at the village – Thereafter, SLP by the appellant that PIL filed by fifth respondent for getting the Tehsil shifted to a new place was to subserve his personal interest; and that the new Tehsil building would be in close proximity to the land owned by the family of fifth respondent and would increase the value of his land – Held: Petition filed in the High Court by fifth respondent was not a genuine petition in public interest – Where a Tehsil building should be constructed is not a matter for the High Court to determine in the exercise of its writ jurisdiction u/Art. 226 of the Constitution – These are essentially administrative matters and a decision has to be taken by the executive – High Courts must remain vigilant to the attempts to misuse PILs to subserve extraneous and motivated purposes – High Court erred in directing the State to construct a new Tehsil office at a particular place – Moreso, the State Government had taken a decision that instead of transferring the Tehsil building to a new location, it should be reconstructed at the place of the old Tehsil building – Thus, the directions contained in the order of the High Court set aside.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11703 of 2018.

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From the Judgment and Order dated 13.10.2017 of the High Court of Judicature at Allahabad in Civil Misc. Recall Application No. 259865 of 2017 in PIL No. 157 of 2017.

Fuzail Ahmad Ayyubi, Wasim Ahmad, Ms. Aditi Gupta, Advs. for the Appellant.

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A Ms. Charu Singhal, Ms. Stuti Chopra, Ms. Swarupama Chaturvedi,
Ashok K. Srivastava, Advs. for the Respondents.

The Judgment of the Court was delivered by

DR. DHANANJAYA Y CHANDRACHUD, J.

B Leave granted.

C 1. A petition was filed purportedly in public interest before the
Allahabad High Court by the fifth respondent. In his petition, the fifth
respondent sought a direction to the State Government to establish a
new tehsil building for Tehsil Hasanpur at Village Karanpur Mafi in the
District of Amroha in Uttar Pradesh. The relief which he sought was in
the following terms :

D “(i) Issue a writ, order or direction in the nature of mandamus
directing the respondent No.2 to establish new building of Tehsil
Hasanpur District Amroha at Village Karanpur Mafi, District
Amroha;

(ii) Issue a writ, order or direction in the nature of mandamus
directing the respondent No.1 to decide the representation of the
petitioner dated 16.12.2015; within the stipulated period.”

E 2. The Division Bench was apprised of the fact that the
Government had granted its financial sanction for the construction of a
new Tehsil office. Accordingly, in terms of the submission made by the
fifth respondent, the High Court disposed of the petition by directing the
State to take all necessary steps for the construction of a new Tehsil
office for Hasanpur, District Amroha at Village Karanpur Mafi.

F 3. The appellant filed a recall application¹ which was rejected by
the impugned order dated 13 October 2017. Challenging the order of
the High Court declining to recall its previous order, these proceedings
have been instituted.

G 4. The Special Leave Petition discloses that the Tehsil of Hasanpur
is situated in District Amroha in the State of Uttar Pradesh. The proposal
for the reconstruction of the Tehsil building of Tehsil Hasanpur was
sanctioned. The appellant has averred that the PIL which was filed by
the fifth respondent before the Allahabad High Court for getting the
Tehsil building shifted to a new place, namely, Gata No.195 situated at

H ¹Numbered as Civil Miscellaneous Application No.259865 of 2017

Village Karanpur Mafi was to subserve his personal interest. It has been stated that, Gata No.196 situated at Village Karanpur Mafi belongs to the family of the fifth respondent, the original petitioner before the High Court. Hence he had a vested interest in seeking a direction of this nature before the High Court so that the value of his land would increase with a new tehsil building coming up in close proximity.

5. On 23 February 2018, notice was issued in these proceedings and an order of status quo was passed.

6. A counter affidavit has been filed on behalf of the State of Uttar Pradesh in which it has been submitted thus :

“The answering respondent respectfully submits that for reconstruction of building of tehsil Hasanpur vide order dated 18.09.2002 issued by commissioner division Moradabad the land Gata No.195/01M area 0.953 hectare situated in village Karanpur Mafi Tehsil Hasanpur was acquired by the State Government. The said land was registered as non productive land in the revenue records.

2. The answering respondent respectfully submits that on 14.04.2016 it was declared by the State Government that instead of transferring the Tehsil Building to any other place it shall be reconstructed in Tehsil Hasanpur at the place of old Tehsil building by demolishing the old building.

3. The answering respondent respectfully submits that during this period the Hon’ble High Court of judicature at Allahabad passed an order dated 06.01.2017 in public interest litigation Writ No.157 of 2017 whereby the Hon’ble High Court directed to respondent No.2 to take all necessary steps for construction of new Tehsil office Hasanpur District Amroha at Village Karanpur Mafi District Amroha.

4. The answering respondent respectfully submits that in compliance of the order dated 06.01.2017 passed by the Hon’ble High Court Allahabad the then District Magistrate, Amroha vide its letter dated 06.03.2017 recommended the construction of new tehsil office at gram Karanpur Mafi keeping in view the larger public interest.”

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A 7. The submission of the State makes it patently clear that the State Government had taken a decision that instead of transferring the Tehsil building to a new location, it should be reconstructed at the place of the old Tehsil building. The implementation of this administrative decision was pre-empted by the directions which were issued in the PIL filed by the fifth respondent.

B 8. Learned counsel appearing on behalf of the fifth respondent has not disputed the factual position that the fifth respondent and/or the members of his family own a land adjacent to the place where the shifting of the Tehsil building was sought before the High Court. That being the position, we are of the view that the petition which was filed in the C High Court by the fifth respondent was not a genuine petition in public interest but was intended to subserve the personal interest of the fifth respondent.

D 9. Where a Tehsil building should be constructed is not a matter for the High court to determine in the exercise of its writ jurisdiction under Article 226 of the Constitution of India. These are essentially administrative matters and a decision has to be taken by the executive. This is hence an illustration of how a public interest litigation (PIL) has been utilised to subserve a personal interest. The High Courts must remain vigilant to the attempts to misuse PILs to subserve extraneous and motivated purposes. Such efforts must be dealt with firmly. High E pre-rogative writs cannot be utilised for such ends.

F 10. The High Court was manifestly in error in its original order dated 6 January 2017 in directing the State to construct a new Tehsil office for Hasanpur at a particular place. This is a matter which should have been left to the State Government to take an appropriate decision.

G 11. Accordingly, we allow the appeal and set aside the directions contained in the order of the High Court dated 06 January, 2017. We also dispose of the petition by clarifying that it would be open to the State Government to take an appropriate decision in accordance with law.

The Civil Appeal is, accordingly, disposed of. No costs.