

H.S.I.D.C.

v.

PRAN SUKH & ORS.

I.A. NO.1 OF 2014

IN

Curative Petition (C) D.No.3040 Of 2014

IN

(Review Petition (C) No.2107 Of 2010 @ Review Petition
(C) Nos.2107-2108 of 2010)

IN

(Civil Appeal No.6515 of 2009)

And in the Matter of:

MANESAR INDUSTRIAL WELFARE ASSOCIATION

OCTOBER 12, 2015

[VIKRAMAJIT SEN AND PRAFULLA CHANDRA PANT, JJ.]

*Supreme Court Rules, 1966: Or XVIII r.5; Or.X rr.3 and 4
– Curative petition – Acquisition of land for benefit of HSIIDC
– Applicants are beneficiaries of the acquisition of land who
entered into agreement with HSIIDC which allots plots to its
members for valuable consideration – Compensation
enhanced by High Court based on sale deed executed by
two private companies – Supreme Court upheld the same –
Applicant filed curative petition on the ground that these sale
deeds were not genuine and therefore were wrongly relied
upon – Curative petition found not maintainable by Registry
– Meanwhile HSIIDC filed a review petition before Supreme
Court which was also dismissed – Applicant filed instant
second curative petition on the ground of violation of
principles of natural justice which was also found to be not
maintainable – Registry refused to list it on the ground of
non filing of review petition prior to the curative petition – Held:
Curative Petition is misconceived and vexatious for the
reasons rightly recorded by the Registry – Rejection of the
previous Curative Petition by the Registry was not assailed*

- A *by the applicant and the factual situation has not changed at all – Applicant is similarly placed as the other Association which was found not to have locus standi and the grounds for review were the same – Applicant was throughout aware of the ongoing proceedings before the Court, yet it did not take*
- B *any action towards getting itself impleaded as a party in the proceedings – In any case, it cannot plead violation of principles of natural justice – The documents and the grounds it is seeking before this Court to ventilate were already heard and analysed by this Court, which cannot be raked up again*
- C *and again by means of a Curative Petition – The objections raised by the Registry were correct and are upheld.*

***Rupa Ashok Hurra v. Ashok Hurra* 2002 (2) SCR 1006: (2002) 4 SCC 388 – relied on.**

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Case Law Reference

2002 (2) SCR 1006 relied on. Para 6.

CIVILAPPELLATE JURISDICTION: I.A. No. 1 OF 2014
IN

E Curative Petition (C) D. No. 3040 of 2014

IN

Review Petition (C) No. 2107 of 2010 @

Review Petition (c) Nos. 2107-2108 of 2010

IN

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Civil Appeal No. 6515 of 2009

From the Judgment and Order dated 19.05.2006 of the High Court of Punjab Haryana at Chandigarh in R.F.A. No. 2699 of 2003.

G

And in the Matter of:

MANESAR INDUSTRIAL WELFARE ASSOCIATION

Annam D. N. Rao, Adv., for the Appellant.

M. Vibhuti S. Gupta, Dr. Kailash Chand, Sanjeev Anand,

Rajnish G., Advs., for the Respondents.

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The Judgment of the Court was delivered by

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VIKRAMAJIT SEN, J. 1. This Appeal by way of motion in Curative Petition Diary No. 231 of 2014 in Civil Appeal No. 6515 of 2009 challenges the Order dated 12.6.2014 of the Deputy Registrar by which the Curative Petition was 'lodged' under Order XVIII Rule 5 as well as Order X Rules (3) & (4) of the Supreme Court Rules, 1966.

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2. The matter concerns acquisition of land by the State of Haryana for the benefits of Haryana Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as "HSIIDC"). The Applicant namely Manesar Industries Welfare Association is an Association of the beneficiaries of the acquisition of land, who having entered into an agreement with HSIIDC, which allots plots to its members for valuable consideration. The compensation for the acquired land was enhanced by the High Court by relying on a Sale Deed executed by two private and independent companies. HSIIDC had unsuccessfully challenged the Judgment of the High Court before this Court, which upheld it vide Judgment dated 17.8.2010.

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3. The Applicant contends that it discovered that the aforementioned transaction relied upon by the High Court was allegedly not a genuine transaction because those two companies were under a common management and they had inflated the consideration/sale price in the Sale Deed in connection with a contemplated joint venture with a company of the USA, and that the Applicant had duly informed HSIIDC about that position. Considering that the liability of the members of the Applicant is commensurate with the amount of compensation, since the price fixed for beneficiaries was tentative subject to revision of the compensation to the landowners, the Applicant filed a curative petition. This Curative Petition was found to be not maintainable by the Registry. The Counsel of the Applicant had essayed to explain how the

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A Curative Petition was maintainable and requested the Registry to list it before Court. However, the petition was not listed and that refusal remains unchallenged, *inter alia* on the ground that the enabling step to preferment of a Curative Petition is the Review Petition.

B 4. Meanwhile, HSIIDC filed a Review petition before this
Court, calling attention to the allegation that the said two
companies had inflated the price of the land in the Sale Deed
for oblique motives. The Review was dismissed on 13.1.2011
C *inter alia* because HSIIDC had not brought forward any
documents or evidence to substantiate its allegation. In that
Review petition, IMT Industrial Association, an association
similarly situated as the Applicant, filed application for getting
itself impleaded. The application came to be rejected in
D view of that Association and its members being beneficiaries
of the acquisition, and therefore having no *locus standi* and
because the application was misconceived. The Review itself
was dismissed.

5. HSIIDC filed another set of Review; this time along with
E documents to substantiate its assertion of manipulation by the
said two companies. Those documents have been considered
and analysed threadbare by this Court in the Review. This Court
also considered the additional materials adduced by the
landowners to show that there has been a steep rise in the
F prices of the nearby lands. The Review was dismissed on
2.7.2012.

6. The Applicant has filed the instant and the second
Curative Petition on grounds of violation of principles of natural
G justice, which petition has also been found to be not
maintainable. The Registry has refused to list it on the ground
of non-filing of Review Petition prior to the Curative Petition in
accordance with the dictum laid down by the Constitution Bench
in Rupa Ashok Hurra vs. Ashok Hurra (2002) 4 SCC 388, the
H relied upon paragraphs of which are reproduced -

51. Nevertheless, we think that a petitioner is entitled to relief *ex debito justitiae* if he establishes (1) violation of the principles of natural justice in that he was not a party to the lis but the judgment adversely affected his interests or, if he was a party to the lis, he was not served with notice of the proceedings and the matter proceeded as if he had notice, and (2) where in the proceedings a learned Judge failed to disclose his connection with the subject-matter or the parties giving scope for an apprehension of bias and the judgment adversely affects the petitioner.

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52. The petitioner, in the curative petition, shall aver specifically that the grounds mentioned therein had been taken in the review petition and that it was dismissed by circulation. The curative petition shall contain a certification by a Senior Advocate with regard to the fulfilment of the above requirements.

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7. We find the Curative Petition misconceived and vexatious for the reasons rightly recorded by the Registry. It is also pertinent that the rejection of the previous Curative Petition by the Registry has not been assailed by the Applicant and the factual situation has not changed at all. Mr. Anand has sought to contend that there is a change in circumstances since more than one Review Petitions has already been filed and dismissed and, therefore, no useful purpose will be served by Applicant filing its own Review Petition. The outcome is a foregone conclusion for the reason (a) the Applicant is similarly placed as the other Association which was found not to have *locus standi* and (b) the grounds for review were the same. The Applicant was throughout aware of the ongoing proceedings before this Court, yet it did not take any action towards getting itself impleaded as a party in the proceedings, perhaps knowing very well the outcome of such application in the light of fate of that of the IMT Industrial Association and the futility in assailing the prevailing position. In any case, it cannot

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A plead violation of principles of natural justice. The documents and the grounds it is seeking this Court to ventilate have already been heard and analysed by this Court, which cannot be raked up again and again and yet again by means of a Curative Petition.

B 8. The objections raised by the Registry are correct and are upheld. These proceedings are brought to a close, but by imposing costs on the Applicant, quantified at ₹ One lac, payable to the Supreme Court Legal Services Authority. However these costs are suspended, but will become immediately payable and recoverable in the event that the Applicant or any of its members initiates any further litigation in this Court pertaining to the present subject matter.

Devika Gujral

Matter disposed of.