

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

I N D E X

IN

CIVIL MISC. (IMPLEADMENT) APPLICATION NO. OF 2013
(Under Section 151 CPC)
On behalf of Petitioners

IN

CIVIL MISC. WRIT PETITION (PIL) NO.31229 OF 2005
(Under Article 226 of the Constitution of India)

District: Varanasi

Kautilya Society, D-20/21 Munshi Ghat, Varanasi
through its General Secretary & another ----- Petitioners

Versus

State of Uttar Pradesh through Principal Secretary
Department of Culture, Civil Secretariat, U.P.
Lucknow & others ----- Respondents

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Dated: 29 October, 2013

(Vrinda Dar)

In Person

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(Under Section 151 CPC)

On behalf of Petitioners

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CIVIL MISC. WRIT PETITION (PIL) NO.31229 OF 2005

(Under Article 226 of the Constitution of India)

District: Varanasi

1. Kautilya Society, D-20/21 Munshi Ghat,
Varanasi through its General Secretary
2. Mrs. Vrinda Dar D/o V.K.Dar, General
Secretary, Kautilya Society, D-20/21
Munshi Ghat, Varanasi ----- Petitioners

Versus

1. State of Uttar Pradesh through Principal Secretary
Department of Culture, Civil Secretariat, U.P.,
Lucknow
2. The Secretary, Department of Housing and
Urban Development, Government of U.P.,
Civil Secretariat, U.P., Lucknow
3. Varanasi Development Authority, Varanasi
Through its Chairman/Commissioner, Varanasi
Division, Varanasi
4. Secretary, Varanasi Development Authority,
Varanasi
5. Capt. R. Vikram Singh, Secretary, Varanasi
Development Authority, Varanasi

6. Shri Apurva Kumar
7. Shri Vivek Kumar
8. Shri Manish Kumar

Nos. 6 to 8 through their Attorney Shri Mahendra Shah, R/o D-20/17-A, B, C, Dashashvamedh, Varanasi

9. Union of India through Ministry of Environment and Forests, New Delhi ----- Respondents

To,

The Hon'ble Chief Justice and his other companion Judges of the aforesaid Court.

The humble application of the abovenamed petitioners Most Respectfully Showeth as under:

1. That full facts of the case have been disclosed in the accompanying affidavit and annexures filed in support thereof.
2. That on the facts and circumstances stated in the accompanying affidavit, it is expedient in the interest of justice that this Hon'ble Court may graciously be pleased to direct the Varanasi Development Authority to lodge a First Information Report against all those who have raised constructions within 200 meter of River Ganga and to take suitable action against S/Shri Satish Chandra Mishra, Joint Secretary, Varanasi Development Authority, Varanasi;

K.D.Singh, Avar Abhiyanta (Bhawan Nirman) Varanasi Development Authority, Varanasi; Amrika Mal, Bhawan Nirikshak, Varanasi Development Authority, Varanasi; R.P. Singh, Sahayak Abhiyanta, Varanasi Development Authority, Varanasi; Shri Ajay Mishra, ex-Senior Superintendent of Police, Varanasi, Ram Krishna Misra, Deputy Superintendent of Police (Pragyan), Local Intelligence Unit, Varanasi and Pawan Shukla resident of Varanasi for causing harassment and obstructing the petitioners from pursuing the present PIL and/or pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts & circumstances of the case so as to meet the ends of justice and **to direct that an independent investigation be conducted by a higher authority since the authorities conducting the FIR related investigations are biased as they are impleaded in and/or affected by the current PIL.**

P R A Y E R

It is, therefore, Most Respectfully Prayed that this Hon'ble Court may very graciously be pleased to allow this application and direct the Varanasi Development Authority to lodge a First Information Report against all those who have raised constructions within 200 meter of River Ganga

and take suitable action against S/Shri Satish Chandra Mishra, Joint Secretary, Varanasi Development Authority, Varanasi; K.D.Singh, Avar Abhiyanta (Bhawan Nirman) Varanasi Development Authority, Varanasi; Amrika Mal, Bhawan Nirikshak, Varanasi Development Authority, Varanasi; R.P. Singh, Sahayak Abhiyanta, Varanasi Development Authority, Varanasi; Shri Ajay Mishra, ex-Senior Superintendent of Police, Varanasi, Ram Krishna Misra, Deputy Superintendent of Police (Pragyan), Local Intelligence Unit, Varanasi and Pawan Shukla resident of Varanasi for causing harassment and obstructing the petitioners from pursuing the present PIL and/or pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts & circumstances of the case so as to meet the ends of justice and **to direct that an independent investigation be conducted by a higher authority since the authorities conducting the FIR related investigations are biased as they are impleaded in and/or affected by the current PIL.**

Dated: November , 2013

(Vrinda Dar)
In Person

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Versus

1. State of Uttar Pradesh through Principal Secretary
Department of Culture, Civil Secretariat, U.P.,
Lucknow
2. The Secretary, Department of Housing and
Urban Development, Government of U.P.,
Civil Secretariat, U.P., Lucknow
3. Varanasi Development Authority, Varanasi
Through its Chairman/Commissioner, Varanasi
Division, Varanasi
4. Secretary, Varanasi Development Authority,
Varanasi
5. Capt. R. Vikram Singh, Secretary, Varanasi
Development Authority, Varanasi
6. Shri Apurva Kumar

7. Shri Vivek Kumar

8. Shri Manish Kumar

Nos. 6 to 8 through their Attorney Shri Mahendra
Shah, R/o D-20/17-A, B, C, Dashashvamedh,
Varanasi

9. Union of India through Ministry of Environment
and Forests, New Delhi ----- Respondents

To,

The Hon'ble Chief Justice and his other companion
Judges of the aforesaid Court.

The humble application of the abovenamed petitioners
Most Respectfully Showeth as under:

1. That full facts of the case have been disclosed in the
accompanying affidavit and annexures filed in support
thereof.

2. That on the facts and circumstances stated in the
accompanying affidavit, it is expedient in the interest of
justice that this Hon'ble Court may graciously be pleased to
permit the petitioners to implead (i) Shri Satish Chandra
Mishra, Joint Secretary, Varanasi Development Authority,
Varanasi (ii) Shri K.D.Singh, Avar Abhiyanta (Bhawan
Nirman) Varanasi Development Authority, Varanasi (iii) Shri
Amrika Mal, Bhawan Nirikshak, Varanasi Development
Authority, Varanasi (iv) Shri R.P.Singh, Sahayak Abhiyanta,

Varanasi Development Authority, Varanasi (v) Shri Ajay Mishra, ex-Senior Superintendent of Police, Varanasi; (vi) Shri Ram Krishna Misra, Deputy Superintendent of Police (Pragyan), Local Intelligence Unit, Varanasi and (vii) Shri Pawan Shukla resident of Varanasi as respondent nos. **10, 11, 12, 13, 14, 15 & 16** respectively in the abovementioned writ petition and/or pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts & circumstances of the case so as to meet the ends of justice and **to direct that an independent investigation be conducted by a higher authority since the authorities conducting the FIR related investigations are biased as they are impleaded in and/or affected by the current PIL.**

P R A Y E R

It is, therefore, Most Respectfully Prayed that this Hon'ble Court may very graciously be pleased to allow this application and permit the petitioners to implead (i) Shri Satish Chandra Mishra, Joint Secretary, Varanasi Development Authority, Varanasi (ii) Shri K.D.Singh, Avar Abhiyanta (Bhawan Nirman) Varanasi Development Authority, Varanasi (iii) Shri Amrika Mal, Bhawan Nirikshak, Varanasi Development Authority, Varanasi (iv) Shri R.P.Singh, Sahayak

Abhiyanta, Varanasi Development Authority, Varanasi (v) Shri Ajay Mishra, ex-Senior Superintendent of Police, Varanasi; (vi) Shri Ram Krishna Misra, Deputy Superintendent of Police (Pragyan), Local Intelligence Unit, Varanasi and (vii) Shri Pawan Shukla resident of Varanasi as respondent nos. 10, 11, 12, 13, 14, 15 & 16 respectively in the abovementioned writ petition and/or pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case so as to meet the ends of justice and **to direct that an independent investigation be conducted by a higher authority since the authorities conducting the FIR related investigations are biased as they are impleaded in and/or affected by the current PIL.**

Dated: November , 2013

(Vrinda Dar)
In Person

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AFFIDAVIT

IN

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Varanasi

5. Capt. R. Vikram Singh, Secretary, Varanasi
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Shah, R/o D-20/17-A, B, C, Dashashvamedh,
Varanasi
9. Union of India through Ministry of Environment
and Forests, New Delhi ----- Respondents

AFFIDAVIT of Mrs. Vrinda Dar, aged
about 50 years, w/o Mr. Stefano De
Santis, resident of D-20/21 Munshi
Ghat, Varanasi
Religion: Hindu
Occupation: Social worker

Deponent

I, the deponent do hereby solemnly affirm and state
on oath as under:

1. That the deponent is one of the petitioners in the
instant writ petition and is looking after the case on
behalf of co-petitioner also and as such is fully
conversant with the facts of the case deposed to
herein below.
2. That the petitioners have filed the present writ
petition praying for following reliefs:

- (i) *issue a writ, order or direction in the nature of mandamus restraining any construction within 200 meters from the Ganga riverfront ghats of Varanasi;*
- ii) *Issue a writ, order or direction in that nature of mandamus directing the respondents to forthwith demolish the construction of 4 storied 5 Star Hotel being carried out by the respondents no.6 to 8 in Darbhanga Palace;*
- iii) *Issue a writ, order or direction in the nature of mandamus commanding upon the respondents no. 1 and 2 to enquire into the illegal constructions made on all riverfront ghats of Varanasi and demolish the same forthwith;*
- iv) *Issue a writ, order or direction in the nature of mandamus commanding upon the respondents not to permit construction of high rise buildings on riverfront bank of Varanasi and maintain skyline of riverfront ghats;*
- v) *Issue a writ, order or direction in the nature of mandamus commanding upon the respondents no.1 and 2 to initiate civil as well as criminal prosecution against all officers of Varanasi Development Authority including the respondent no. 5 involved in illegal constructions on riverfront ghats as well as in Darbhanga Palace;*

vi) *Issue a writ, order or direction in the nature of mandamus commanding upon the respondents no. 1 and 2 to handover the riverfront ghats of Varanasi to an independent agency/NGO/ Committee for its maintenance and preservation of its cultural heritage;*

vii)

viii)"

3. That the Petitioner no. 2 is a social worker and is deeply involved in protecting and promoting the cultural, philosophical, architectural and environmental heritage of India, and especially of Varanasi, and for which she visits universities, institutions and centres in different countries; and for which she, and the Society she is part of, facilitate interactions and inter-cultural studies and experiences among culturally, socially and academically interested people.

4. That in the aforesaid PIL filed by the petitioners various orders have been passed from time to time. Some of the recent orders passed by this Hon'ble High Court have made the respondent Development Authority uncomfortable and in fact because of the said orders entire District Administration has become inimical to

the Society in general and the petitioner no. 2 in particular. There have been many '*dharna*' & '*pradarshan*' against the petitioner no. 2 and these have increased in the past one year and the Society and the deponent have come to know that it has all been initiated in connivance with the Varanasi Development Authority and District Administration. The deponent submits that one such group demonstrating against her is comprised of group of persons brandishing dangerous weapons in their hands and came out against the deponent. Copy of two photographs is appended hereto as **Annexure No.1**. It is noteworthy that the person shown in the second photograph is a member of the same group and is shown sitting with the ex-Senior Superintendent of Police, Varanasi.

5. That the deponent submits that even though the deponent has brought this matter to the knowledge of the district authorities on several occasions, no action has been taken in the matter and the deponent is under continuous threat of the society.
6. That the deponent also submits that since filing of instant PIL, respondent authorities have been behind the deponent but they could not find anything

against her. But after passing of some recent orders by the Hon'ble High Court, they are bent upon harassing the deponent in all possible ways.

7. That it so happened that on 8.6.2013, which was a holiday being Second Saturday, a team of the respondent Development Authority viz. S/Shri Satish Chandra Mishra, Joint Secretary, K.D.Singh, Avar Abhiyanta (Bhawan Nirman), Amrika Mal, Bhawan Nirikshak, R.P. Singh, Sahayak Abhiyanta at about 2 p.m. visited the house of the deponent and on the pretext of causing disturbance in discharge of official duties lodged a First Information Report. Copy of aforesaid FIR dated 8.6.2013 is appended hereto as **Annexure No.2.**

8. That bias and malafide on the part of respondent Development Authority officials who visited the house of the deponent can be proved from the mere fact that the deponent was not present there on the spot as on the said date she left India at 9:20 hrs from Indira Gandhi International Airport, New Delhi for Afghanistan for social work, which is proved from the Air Ticket, Boarding Pass & Immigration Seal, copies whereof are collectively appended hereto as **Annexure No.3.** The deponent submits that though

from the aforesaid it is clear that the deponent was not present in India, yet she has not only been named in the FIR but she has also been charged for committing offence under sections 153, 186, 188 & 504 IPC.

9. That the deponent is also bringing on record the photographs showing the comfort and the leisure with which the VDA authorities carried out their work at the deponent's residence yet they have charged the deponent of the offences mentioned in the FIR. As a matter of fact the respondent authority were never obstructed or assaulted by the deponent or any other member/staff. The authorities were sitting comfortably. Copy of the photographs showing the VDA authorities carrying out the proceedings at deponent's House No. D/20/21 Munshi Ghat, Varanasi is appended hereto as **Annexure No. 4.**

10. That the deponent respectfully submits that in fact contrary to the allegations in the FIR, no new construction was being raised in the premises of the petitioner; the material which was lying in the premises was only for repairing work that needed to

be done because of the building being old and requiring regular repair & maintenance. However, as the deponent had an apprehension from the VDA authorities of the action they have now taken, she had taken the photographs even prior to start of the repairs. The photographs would demonstrate the quantum and magnitude of the repair to be carried out at the spot, copies whereof are appended hereto as **Annexure No.5.**

17. That the malafide on the part of the VDA authorities is also proved from the mere fact that the day the VDA authorities visited deponent's house i.e. 8.6.2013, was a Second Saturday and they were not supposed to be in the office. Accordingly, when it was inquired as to how they came on holiday, it was intimated that the officers had come to the petitioner's premises upon receiving message on SMS from the Vice Chairman, VDA, Varanasi who had a personal grievance against the petitioner. Copy of the application moved under RTI and the reply given by the VDA are collectively appended hereto as **Annexure No.6.**

18. That the deponent respectfully submits that it is she who has taken up the cause of not permitting any construction within 200 meters from Ganga River and is fitting for the enforcement of the G.O. of the U.P. State Government and it is on her petition that the orders making the VDA authorities uncomfortable have been passed from time to time and yet it she that has been charged for violation of the G.O and its own doings.
19. That the deponent submits that time & again petitioners have brought on record the factual evidence and facts of illegal constructions being raised in connivance with VDA authorities but there has rarely been a case where the VDA authorities have lodged an FIR against owners of such illegal building. However, in the case of petitioners even though there was no occasion at all the VDA authorities have lodged FIR against the deponent, implicating her in a false case.
20. That the petitioner No. 2 sent an appeal (by e-mail and Speed Post) to the Senior Superintendent of Police, Varanasi requesting him to investigate the matter of the FIR was and take required action. No response has yet been received by the petitioner to

the same. That the deponent also asked for information on the appeal through the RTI Act and has not yet received any response from the authorities. A copy of the letter is appended hereto as **Annexure No.7.**

11. That from the aforesaid, it is clear that the said FIR was lodged by the VDA officials with a view to harass and discourage the deponent from pursuing and contesting the instant PIL filed by her and to purposefully defame the Society and her by giving false information to the press. Copies of press releases are appended hereto as **Annexure No.8.**

12. That the harassment of the deponent has gone further away resulting into another FIR, this time on the complaint of one Pawan Shukla and at the instance of report of LIU. It is submitted that pursuant to the LIU report, the then SSP wrote a letter to SO, Police Station Dashashvamedh to file a First Information Report. The said SO, even without making any investigation to ascertain the correct facts, lodged a FIR on 13.10.2013. Copy of LIU's report as well as

FIR dated 13.10.2013 is appended hereto as

Annexure No.9.

13. The deponent submits that she is not aware/nor knows the whereabouts of Pawan Shukla and there is apparently no reason for the said Pawan Shukla to make a complaint against her. The deponent submits that the matter appears to be manipulated by the District Administration and in connivance with said Pawan Shukla the FIR has come into existence.
14. That the deponent respectfully submits that the said FIR is nothing but an outcome of the efforts of the deponent as a social worker, that apart from resulting into restraining illegal constructions within 200 meters from the River Ganga, also resulted into certain uncomfortable orders against the VDA authorities, at one occasion against the Commissioner of Varanasi Division itself and against a government project proposing permanent constructions on the Ganga riverfront ghats in Varanasi.
15. That the petitioner No. 2 sent an appeal to the District Magistrate, Varanasi requesting him to

investigate the matter and take required action. No response has yet been received by the petitioner to the same. A copy of the letter is appended hereto as **Annexure No.10.**

16. That the deponent submits that she or her Society is not violating any law, which is alleged to have been committed by the deponent for which the FIR has been lodged. The petitioners are carrying out the aims and objectives of the society in its true spirit and have never indulged in activities which by any stretch of imagination may result into causing any loss or damage to the society. If need, the deponent could bring on record each and every material to demonstrate that she has never violated any of the laws, which have been alleged to be violated in the FIR, lodged on the basis of report submitted by LIU, Varanasi.
17. That the petitioner submits that the FIRs and demonstrations have been instigated by the respondent Development Authority in connivance with some of the owners of illegal buildings, either partially demolished or meant to be demolished, to purposefully defame the Petitioner and the Society through false press releases and groundless FIRs.

18. That in view of the aforesaid facts & circumstances it is clear that Shri Satish Chandra Mishra, Joint Secretary, Varanasi Development Authority, Varanasi; Shri K.D.Singh, Avar Abhiyanta (Bhawan Nirman) Varanasi Development Authority, Varanasi; Shri Amrika Mal, Bhawan Nirikshak, Varanasi Development Authority, Varanasi; Shri R.P.Singh, Sahayak Abhiyanta, Varanasi Development Authority, Varanasi; Shri Ajay Kumar Mishra, ex-Senior Superintendent of Police, Varanasi; Shri Ram Krishna Misra, Deputy Superintendent of Police (Pragyan), Local Intelligence Unit, Varanasi and Shri Pawan Shukla resident of Varanasi are acting in a bias and malafide manner against the deponent and as such the deponent craves leave of this Hon'ble Court to implead (i) Shri Satish Chandra Mishra, Joint Secretary, Varanasi Development Authority, Varanasi; (ii) Shri K.D. Singh, Avar Abhiyanta (Bhawan Nirman) Varanasi Development Authority, Varanasi; (iii) Shri Amrika Mal, Bhawan Nirikshak, Varanasi Development Authority, Varanasi; (iv) Shri R.P.Singh, Sahayak Abhiyanta, Varanasi Development Authority, Varanasi; (v) Shri Ajay Kumar Mishra, ex-Senior Superintendent of Police, Varanasi; vi) Shri

Ram Krishna Misra, Deputy Superintendent of Police (Pragyan), Local Intelligence Unit, Varanasi and (vii) Shri Pawan Shukla resident of Varanasi as Respondent Nos. 10, 11, 12, 13, 14, 15 & 16 respectively in the abovementioned writ petition and/or pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts & circumstances of the case so as to meet the ends of justice.

I, the deponent abovenamed, do hereby verify and state that the contents of paragraph nos. 1 to 20 of this affidavit are true to my personal knowledge; and that nothing material has been concealed in this affidavit and no part of it is false or incorrect.

So help me God,

Deponent

Solemnly affirmed before me on this day of November 2013 at ___A.M./P.M. by the deponent who is appearing in person in the present writ petition.

I have satisfied myself by examining the deponent that she has understood the contents of this affidavit, which have been read over and explained to her by me.

Oath Commissioner

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO.1

IN

AFFIDAVIT

IN

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(Under Section 151 CPC)

On behalf of Petitioners

IN

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through its General Secretary & another ----- Petitioners

Versus

State of Uttar Pradesh through Principal Secretary

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Lucknow & others

----- Respondents

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO.2

IN

AFFIDAVIT

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ANNEXURE NO.3

IN

AFFIDAVIT

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ANNEXURE NO.4

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AFFIDAVIT

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ANNEXURE NO.5

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AFFIDAVIT

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ANNEXURE NO.6

IN

AFFIDAVIT

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO.7

IN

AFFIDAVIT

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Lucknow & others

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO.8

IN

AFFIDAVIT

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----- Respondents

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO.9

IN

AFFIDAVIT

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO.10

IN

AFFIDAVIT

IN

CIVIL MISC. (IMPLEADMENT) APPLICATION NO. OF 2013

(Under Section 151 CPC)

On behalf of Petitioners

IN

CIVIL MISC. WRIT PETITION (PIL) NO.31229 OF 2005

(Under Article 226 of the Constitution of India)

District: Varanasi

Kautilya Society, D-20/21 Munshi Ghat, Varanasi

through its General Secretary & another ----- Petitioners

Versus

State of Uttar Pradesh through Principal Secretary

Department of Culture, Civil Secretariat, U.P.

Lucknow & others

----- Respondents
