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W.P.(MD) No.22342 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.08.2025

PRESENT

THE HONOURABLE MR JUSTICE C.SARAVANAN

W.P(MD)No.22342 of 2025

and

W.M.P.(MD)No.17443 of 2025

T.Raja Usha Rani

: Petitioner

Vs.

1.The Director of Municipal Administration,
75, Urban Utility Building,
M.R.C. Nagar,
Santhome High Road,
R.A.Puram,
Chennai-600 028.

2.The Commissioner,
Sivakasi Municipal Corporation,
Sivakasi, Virudhunagar District,
Pin:626 123.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to dispose of the petitioner's statutory appeal, dated 13/01/2025 and 16/01/2025 within a time frame that may be fixed by this court, and in the meantime, direct the respondents to maintain status quo with respect to the small space of pathway in T.S No.60/2 (area 22 sq. mtr), Survey Ward-A, Block-19, situated within Sivakasi Municipal Corporation, Sivakasi Taluk, Virudunagar District and pass such further or other orders.



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For Petitioner : Mr.V.R.Shanmuganathan

For 1st Respondent : Mr.D.Ghandiraj
Special Government Pleader

For 2nd Respondent : Mrs.S.Devasena
Standing Counsel

ORDER

The petitioner has approached this court for a mandamus to direct the first respondent to dispose of the statutory appeal, dated 13/01/2025 and 16/01/2025 within the time that may be fixed by this court and in the meantime, to direct the respondents to maintain the *status quo* with respect to the small space of pathway in T.S.No.60/2 (area 22 sq. mtr), Survey Ward-A, Block-19, situated within Sivakasi Municipal Corporation, Sivakasi Taluk, Virudhunagar District.

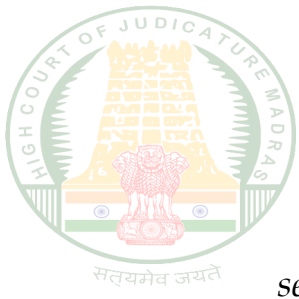
2. It is noticed that earlier, the second respondent namely the Commissioner, Sivakasi has passed an order, on 08/01/2025 whereby a notice was issued to the petitioner's husband in response to the representations of the petitioner's husband, dated 28/01/2024, 26/12/2024 and 28/12/2024. By the said order, the request for permitting to use a portion of the land abutting the petitioner's patta land was rejected. Instead of challenging the above said order immediately, the petitioner



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rushed this court in WP(MD)No.2746 of 2025 for a mandamus to forbear the second respondent from converting the entire open space covered in Ward A, Block 19, T.S No.60/2 and Ward A, Block 17, T.S No.3 of Sivakasi Municipal Corporation, Virudhunagar District as Miyawaki Forest and laying fence encircling the said property against Tamil Nadu Parks, Play Field and Open Spaces (Reservation and Regulation) Act 1959. The writ petition, however, was dismissed, by order, dated 03/02/2025 with the following:-

“7.In the light of the above, this Court is of the considered view that in case, if the petitioner has got any easementary right to use the subject open space as a dominant user, it is always open for the petitioner to approach the competent civil Court and establish her easementary right and claim appropriate relief. Infringement of easementary right cannot be complained of before this Court, that too under Article 226 of the Constitution of India. Further, the contention that the respondents are taking steps to convert the nature of open space being park to that of Miyawaki Forest is found to be totally baseless and unsupported by any material and in the considered view of this court, such a contention is being raised by the petitioner only to prevent the respondent-Corporation from developing and protecting the open space area earmarked for park. Further, the petitioner is also not entitled to



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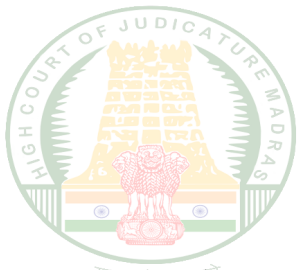
seek the relief as sought for in the writ petition without challenging the proceedings, dated 08.01.2025 passed by the second respondent.

8.In the light of the above, this Court does not find any merit in this Writ Petition and the same is accordingly, dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

3. Thereafter, the petitioner filed an appeal against the above said order of the Writ Court dated 03.02.2025 in WA(MD)No.407 of 2025, which came to be dismissed, on 11/08/2025. Meanwhile, the petitioner has also filed an appeal before the first respondent as stated above.

4. While dismissing WA(MD)No.407 of 2025 filed by the petitioner, another writ petition filed by one Councilor in WP(MD)No.19490 of 2025 was also closed, which was filed for a direction to the respondents herein to maintain the pathway.

5. It appears that the land in question was gifted to the second respondent Corporation by one in 1995, which was meant for developing a Miyaki Forest (Park).



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Patta also stands in the name of the respondent. However, a portion of the land was allowed to be used by the petitioner all along, which has now been barricaded, which led to filing of the representation on behalf of the petitioner's husband mentioned above and these subsequent orders of the second respondent, which has now been impugned before the first respondent.

6. The learned counsel appearing for the 2nd respondent would submit that the land is meant for public purpose and cannot be used for pathway. It is submitted that the petitioner has access to the road from the southern portion of the property and therefore, the writ petition is liable to be dismissed.

7. Having considered the submissions made by the learned counsel appearing for the petitioner and the learned counsels appearing for the respondents, I am of the view that the petitioner is entitled to have the grievance redressed against the order of the second respondent, dated in Na.Ka.No.8911/2024/F1 before the first respondent.

8. Considering the same, the writ petition is **disposed of** by directing the first respondent to pass appropriate orders taking note the ground reality surrounding



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the land in Survey No.74/1A of the petitioner, which *prima facie* appears to be land-locked from all sides. The said exercise shall be completed by the first respondent as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

9. In the meantime, the respondents are directed to maintain the *status quo* for a period of four weeks for the petitioner to secure any interim order from a civil court. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar()

// True Copy //

/ /2025

Sub Assistant Registrar
(CS- I/ II / III / IV)

er/jen

To,

1.The Director of Municipal Administration,
75, Urban Utility Building,



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M.R.C. Nagar,
Santhome High Road,
R.A.Puram,
Chennai-600 028.

2.The Special Government Pleader,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.VR.SHANMUGANATHAN, Advocate (SR-51606[F] dated
14/08/2025)

+1 CC to M/s.SPL GP (SR-51882[F] dated 18/08/2025)

WP(MD)No.22342 of 2025

13/08/2025

MGJ (20.08.2025) 7P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023