



C.M.P(MD)No.15043 of 2025
in W.A(MD)SR.No.72915 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2025

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.M.P(MD)No.15043 of 2025
in
W.A(MD)SR.No.72915 of 2025

M.Backialakshmi

... Petitioner

/Vs./

1. T.Raja Usha Rani

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

3. The Commissioner,
Sivakasi Municipal Corporation
Sivakasi, Virudhunagar District
Pincode -626 123

...Respondents

PRAYER in C.M.P(MD)No.15043 of 2025:- Petition filed under Section 151 of CPC to grant leave to file an appeal as against the order passed in WP(MD)No.22342 of 2025 dated 13.08.2025 and 20.08.2025.



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PRAYER in W.A(MD)SR.No.72915 of 2025:- Writ Appeal filed under Clause 15 of Letters Patent, to set aside the judgment dated 13.08.2025 and 20.08.2025 in WP(MD)No.22342 of 2025 on the file of this Court.

For Petitioner : Mr.M.Jothi Basu
For Respondents : Mr.V.R.Shanmuganathan (R1)
Mr.S.P.Maharajan (R2)
Special Government Pleader
Mr.S.Janaki (R3)
for M/s.S.Devasena

ORDER

(Order of the Court was made by **DR.ANITA SUMANTH, J.**)

The present petition seeking grant of leave to challenge the orders dated 13.08.2025 and 20.08.2025 is unnecessary, as the Commissioner, Sivakasi Municipal Corporation / R2 in writ petition had challenged orders dated 13.08.2025 and 20.08.2025 in WA(MD)No.2838 of 2025 and that writ appeal had come to be allowed by order dated 13.10.2025. The operative portion of the order is as follows:-

'11. Having heard learned counsel for the parties and upon perusal of the various orders passed by both the Division Bench and the learned Single Judge of this Court in



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successive rounds of litigation, we are of the firm view that, once the writ petition was dismissed on 03.02.2025, followed by the dismissal of the writ appeal on 11.08.2025, the petition filed by the first respondent thereafter, seeking to re-agitate the same issue under the guise of a writ of mandamus to compel consideration of her appeal against the order dated 08.01.2025 was not maintainable.

12. It appears that, aggrieved by the order dated 08.01.2025, the first respondent not only filed an appeal, but also preferred a writ petition before this Court seeking enforcement of her alleged easementary right. In that petition, she also questioned the action of the appellant Corporation, alleging that land earmarked for a park was being converted into forest land.

13. At that stage itself, the first respondent could have sought a writ of mandamus for a decision on her pending statutory appeal, instead of insisting that the writ petition be decided on its own merits. However, the first respondent/writ petitioner did not press for disposal of her appeal, but instead raised substantive issues on merits. This led the Court to observe that the appropriate remedy available to her was to file a civil suit.

14. Evidently, the first respondent/writ petitioner could not have pursued two parallel remedies in respect of the same cause of action. Notably, at that stage, she did not make any specific prayer for disposal of her appeal. Furthermore, the allegation that the Corporation authorities were attempting to convert park land into forest land was found to be baseless. While dismissing the writ petition by order dated 03.02.2025, the learned Single Judge also recorded that there was no challenge to the order dated 08.01.2025.

15. While pursuing the first writ petition and praying for various reliefs, it was open to the first respondent/writ petitioner to seek an appropriate writ of



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mandamus directing disposal of her appeal. However, having failed to seek that relief, she must be deemed to have waived the same. Had such a prayer been pressed, the Writ Court could have considered whether she should be permitted to pursue the statutory appeal or be confined to the civil remedy for enforcing her easementary claim.

16. A writ appeal filed against the dismissal of the said writ petition was also dismissed.

17. Having failed in both the writ petition and the writ appeal, the first respondent/writ petitioner has now filed a fresh writ petition seeking a writ of mandamus for disposal of her statutory appeal. Such a prayer cannot be entertained, as liberty had already been granted to the first respondent/writ petitioner to pursue her remedy by way of a civil suit. The attempt to re-agitate the matter under the guise of a different relief is impermissible.

18. The second writ petition, if it may be so described, was barred by the principle of constructive res judicata. A relief which could have been sought in the first writ petition was not prayed for, despite being available to the first respondent/writ petitioner at that stage.

19. It has also been brought to the notice of this Court that the first respondent/writ petitioner has, in fact, approached the Civil Court by filing a suit. It is further stated at the bar that the application for injunction filed in the said civil suit has already been decided, although the suit itself is still pending adjudication.

20. All the subsequent orders passed on 20.08.2025, 12.09.2025, and 16.09.2025 are merely offshoots of the directions issued on 13.08.2025.

21. In view of the above discussion, we are of the considered view that the impugned orders passed by the learned Single Judge on 13.08.2025 and 20.08.2025 are not sustainable in law and are, accordingly, set aside. We make it clear that all subsequent directions passed by the learned



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Single Judge are set aside in view of the order passed in this appeal.

22. However, we leave it open to the first respondent/writ petitioner to work out her remedy, if so advised, in respect of the order dated 10.10.2025 passed by the Civil Court rejecting her application for temporary injunction.'

2. As on date, the aforesaid order attained finality, as confirmed by Mr.V.R.Shanmuganathan, who appears for R1 / writ petitioner.

3. Recording the aforesaid, this petition seeking grant of leave to file an appeal is closed. Connected writ appeal is also closed even at SR stage. No costs.

**[A.S.M.J.] & [C.K.J.,]
11.11.2025**

NCC :Yes/No
Index :Yes/No
Internet :Yes
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AND
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