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W.A.No.1057 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

WA No.1057 of 2026
and CMP No.10695 of 2026

State Rep. by Chief Manager
The Chief Manager
Punjab National Bank,
No.21, Raja Annamalai Road,
Purasawakkam Branch,
Chennai – 600 084.

Appellant(s)

Vs

S.Vijayakumar,
S/o.S.Srinivasan,
No.155, S and P Residency,
Rajankuppam, Vanagaram,
Thiruverkadu, Chennai – 600 095.

Respondent(s)

PRAYER: Appeal under Clause 15 of the Letters Patent to set aside the
order dated 28.11.2025 passed in WP.No.45822 of 2025.

For Appellant(s): Mr.V.Subramanian
for Mr. R.Sriram



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For Respondent(s): Mr.T.Surendran

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JUDGMENT
(Delivered by the Hon'ble Chief Justice)

This appeal is filed assailing the order dated 28.11.2025 passed by the learned Single Judge in W.P.No.45822 of 2025.

2. At the outset, learned counsel for the appellant submits that the respondent herein, who is the writ petitioner, has filed the second writ petition seeking identical relief, without any liberty having been granted by a Division Bench of this court which dismissed the first writ petition. It is further submitted that the learned Single Judge disposed of the writ petition without even issuance of notice to the appellant herein and the order of the learned Single Judge is contrary to the view taken by the Division Bench in the earlier round of litigation.

3. Learned counsel for the respondent/writ petitioner submitted that pursuant to the liberty granted to the writ petitioner in the first round of litigation, he has made a representation to the appellant and as the said representation was not considered, he filed the second writ



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petition and in as much as a direction was issued only to consider the respondent's application, no prejudice would be caused to the appellant.

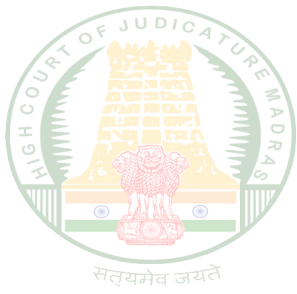
4. We have heard learned counsel on either side and given our anxious consideration to the arguments advanced.

5. At the outset, it would be appropriate to refer to the prayer made by the respondent herein, who was the writ petitioner in W.P.No.13596 of 2025:

"Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to apply necessary rehabilitation package scheme announced by the Central Government by means of RBI Circular No.RBI/2018-19/100 DBR No.BC 18/21/1-048/2018-19 dated 01.01.2019 to the account of the petitioner and regularise the account of the petitioner."

5. The aforesaid writ petition was dismissed by a Division Bench of this Court vide order dated 23.4.2025, which reads thus:

"Considering the prayer sought, we cannot grant such a mandamus."



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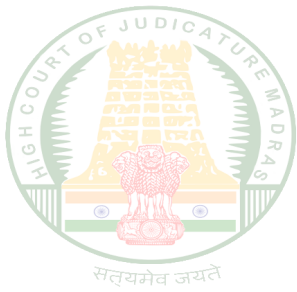
2. Petition stands dismissed. There will be no order as to costs. Consequently, the interim application also stands disposed of.

3. Petitioner may approach the bank with a representation and the bank may consider the representation.

4. We express no opinion."

6. It is stated that the respondent herein thereafter made a representation to the appellant and as the said representation was not considered, he filed another writ petition, being W.P.No.45822 of 2025, seeking the following relief:

"This writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent herein to apply the necessary rehabilitation package scheme announced by the Central Government by means of RBI circular No. RBI/2018-19/100 DBR No.BC 18/21/04-048/2018-19 dated 1.1.2019 to the account of the petitioner herein and regularize the account of the petitioner herein."



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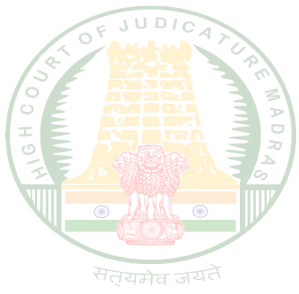
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7. The said writ petition was disposed of by the learned Single Judge of this Court, without issuing any notice to the appellant herein, with the following direction:

"4. Heard the learned counsel for the petitioner and perused the materials available on record. Since no adverse order is passed against the respondents, notice to them is dispensed with.

5. Considering the facts and circumstances of the case and in view of the limited request sought for by the petitioner, this court directs the respondent to consider and pass orders on the petitioner's application within a period of six weeks from the date of receipt of a copy of this order."

8. It is not in dispute that while dismissing the first writ petition no liberty was given to the respondent to file a second writ petition. It was only recorded that the respondent herein may approach the bank with a representation and the bank may consider the representation. However, the respondent herein filed the second writ petition seeking identical relief as in the first writ petition and he did not pray for a direction to consider his representation.



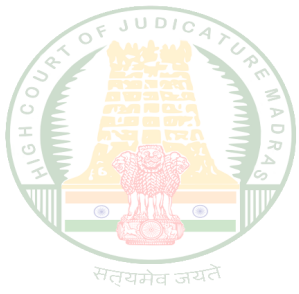
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9. The principle of maintainability of the second writ petition, if liberty was not granted by the court while withdrawing the first writ petition, has been considered by the Supreme Court and it has been held that second writ petition on the same issue is not maintainable, if liberty is not granted by the court. The Supreme Court in *Sarguja Transport Service v. S.T.A.T.*¹, held thus:

"9. The point for consideration is whether a petitioner after withdrawing a writ petition filed by him in the High Court under Article 226 of the Constitution of India without the permission to institute a fresh petition can file a fresh writ petition in the High Court under that article. On this point the decision in Daryao case [AIR 1961 SC 1457] is of no assistance. But we are of the view that the principle underlying Rule 1 of Order XXIII of the Code should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata but on the ground of public policy as explained above. It would also discourage the litigant from indulging in bench-hunting tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke

¹ (1987) 1 SCC 5

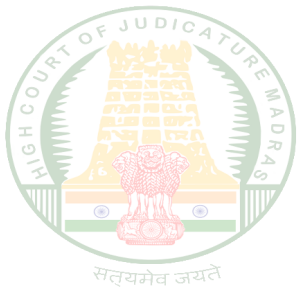


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the extraordinary jurisdiction of the High Court under Article 226 of the Constitution once again. **While the withdrawal of a writ petition filed in a High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under Article 32 of the Constitution of India since such withdrawal does not amount to res judicata, the remedy under Article 226 of the Constitution of India should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission. In the instant case the High Court was right in holding that a fresh writ petition was not maintainable before it in respect of the same subject-matter since the earlier writ petition had been withdrawn without permission to file a fresh petition.** We, however, make it clear that whatever we have stated in this order may not be considered as being applicable to a writ petition involving the personal liberty of an individual in which the petitioner prays for the issue of a writ in the nature of habeas corpus or seeks to enforce the fundamental right guaranteed under Article 21 of the Constitution since such a case stands on a different



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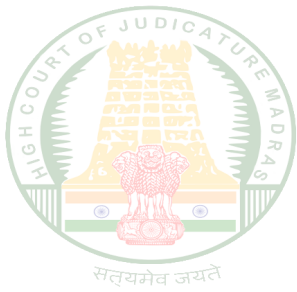
footing altogether. We, however leave this question open.”

[emphasis supplied]

10. In *Avinash Nagra v. Navodaya Vidyalaya Samiti*², the Supreme Court held that where the first writ petition was withdrawn without grant of liberty by the court to file a second writ petition, the second writ petition for that very purpose would attract the principle of *constructive res judicata* and would, therefore, not be maintainable. The relevant observation is reproduced hereunder:

“13. The High Court also was right in its conclusion that the second writ petition is not maintainable as the principle of constructive res judicata would apply. He filed the writ petition in first instance but withdrew the same without permission of the Court with liberty to file the second writ petition which was dismissed. Therefore, the second writ petition is not maintainable as held by the High Court in applying the correct principle of law. Thus considered we find no merit in the appeal for interference.”

² (1997) 2 SCC 534



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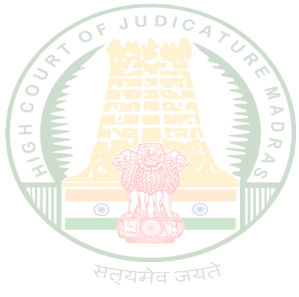
11. In view of the law enunciated by the Supreme Court in the aforesaid decisions on the issue of maintainability of second writ petition, without any liberty granted at the time of withdrawal of the first writ petition, we are of the view that the second writ petition seeking the very same relief is not maintainable and is liable to be dismissed.

12. The writ appeal is allowed and the order passed by the learned Single Judge is set aside. There shall be no order as to costs. Consequently, interim application stands closed.

We make it clear that we have not expressed any opinion on the merits of the claim of the respondent.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
28.04.2026

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

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