

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No. 21450 of 2015 (E)

PETITIONER :

**AJESH P.J., AGED 25 YEARS,
S/O.JAYAN (LATE) PANNAKKATTIL HOUSE,
MANNAM P.O., CHITTATTUKARA, NORTH PARUR.**

BY ADV. SRI.M.JITHESH MENON

RESPONDENT(S):

- 1. THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM, CIVIL STATION, KAKKANAD, KOCHI-30,
REP. BY ITS SECRETARY.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM CIVIL STATION,
KAKKANAD, KOCHI 30.**

BY GOVERNMENT PLEADER SMT. K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 21450 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE REGULAR PERMIT HELD BY THE PETITIONER'S FATHER (JAYAN) DATED 29.12.14.**
- EXHIBIT P2. COPY OF THE DEATH CERTIFICATE DATED 11.5.15.**
- EXHIBIT P3. COPY OF THE INTIMATION SUBMITTED BY THE PETITIONER DATED 14.5.15.**
- EXHIBIT P4. COPY OF THE FAMILY MEMBERSHIP CERTIFICATE DATED 25.5.15.**
- EXHIBIT P5. COPY OF THE APPLICATION PREPARED BY THE PETITIONER FOR TRANSFER IN FORM 31 DATED 20.6.15.**
- EXHIBIT P6. COPY OF THE AFFIDAVIT GIVEN BY THE PETITIONER'S MOTHER AND BROTHERS DATED 18.5.15.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.21450 of 2015

Dated this the 21st day of July, 2015.

JUDGMENT

The petitioner is aggrieved by the refusal of the respondents to accept application for transfer of permit to the petitioner's name on the death of the permit holder, insisting on production of legal heirship certificate.

2. The petitioner alleges that his father was the holder of a regular permit to operate on the route between Vypin and North Parur with extension from Kalamukku to Collectors Square through Gosri Bridges in respect of stage carriage KL-/T.6852 valid till 8.1.2017. His father passed away on 25.4.2015 and he had intimated the same to the second respondent and also his intention to operate the vehicle in the capacity as the person succeeding to the possession of the vehicle, as is required under Section 82 of the MV Act. The petitioner had also obtained a relationship certificate from the village officer, North Parur showing the relationship of the

petitioner and other legal heirs to the deceased permit holder. The other legal heirs of the deceased permit holder who are the mother and brother of the petitioner have also given their consent in transferring the permit to the petitioner's name. The petitioner points out that he had thereafter prepared an application for transfer of ownership and permit to the petitioner's name accompanied by the relationship certificate and the consent of other legal heirs. However, the second respondent did not accept the fees for transfer and the application for transfer on the ground that the same would be accepted only if a legal heirship certificate is produced. The said stand taken by the second respondent is absolutely illegal, arbitrary and unjust. The petitioner further points out that question as to whether an application for transfer of permit on the death of the permit holder need to be accompanied by a legal heirship certificate is no longer *res integra* in view of the authoritative pronouncement of law in Bhagyalakshmi's case (2010(2) KLT 431). This Court had in the said decision held

that the application need be accompanied only by any document establishing the relationship of the applicant to the deceased permit holder and that the legal heirship certificate is not mandatory. It is with this background, the petitioner has come up before this Court.

3. I have heard the learned counsel for the petitioner and the learned Senior Government Pleader in the matter.

4. The question as to whether the legal heirship certificate is required for transfer of permit is no longer res integra in view of the pronouncement of law in Bhagyalakshmi's case (2010(2) KLT 431), where it was held that the production of legal heirship certificate is not a mandatory requirement and that any document which would establish that the applicant is legally entitled to succeed to the possession of the vehicle alone is required. Therefore, the production of the relationship certificate is sufficient to establish that the applicant is entitled to succeed to the possession of the vehicle. In the instant case, the petitioner

has complied with the said formalities.

Therefore, the writ petition is disposed of directing the second respondent to accept the application submitted by the petitioner for transfer of permit and to allow the same, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment.

To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition as well as a copy of this judgment before the second respondent at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.