

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.36729 and 36730 of 2015

J. Lalitha Evangeline [Petitioner in W.P.No.36729 of 2015]

Mrs.E.J. Roshini [Petitioner in W.P.No.36730 of 2015]

Vs

Assistant Registering Authority,
Chennai (Central),
Ayanavaram,
Chennai 600 023. [Respondent in both Writ Petitions]

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent herein to call for the records of the respondent culminating in the impugned communications in R.No.NDIS/A2/71961/2015 and R.No.NDIS/A2/71960/2015 dated 23.10.2015 and quash the same and direct the respondent to register the transfer the ownership of the vehicles viz (i) "Maruti Esteem" registered as No.TN-07-AX-6789 and (ii) "Mahindra Bolero" bearing No.TN-01-AF-1606 in the names of the petitioners respectively and consequently issue the Registration Certificate in the name of respective petitioners without insisting on the production of the legal heirship certificate.

For Petitioner : Mr.S.N.Namasivayam

For Respondent : Mr.M.S.Ramesh,
Additional Government Pleader

COMMON ORDER

Heard the learned counsel for the petitioner and Mr.M.S.Ramesh, learned Additional Government Pleader, who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2.These writ petitions are filed challenging the impugned communications of the respondent dated 23.10.2015 and to subsequently direct the respondent to register the transfer of ownership of the vehicles in the name of the petitioners and

consequently issue Registration Certificates in their names without insisting for production of legal heirship certificate.

3. According to the petitioners, the sister of the petitioner in W.P.No.36729 of 2015, by name A.Sarah Navaroji, who is a spinster, died on 22.7.2014, bequeathing all her movable and immovable properties in favour of this petitioner and her daughter, who is the petitioner in W.P.No.36720 inclusive of two motor vehicles viz., (i) Mahindra Bolero bearing Registration No.TN-01-AF-1606 and (ii) Maruti Esteem bearing Registration No.TN-07-AX.6789, by a registered Will dated 26.12.2008. After the demise of the said Sarah Navaroji, the petitioners herein took possession of the movable and immovable properties of the deceased. As the said Will did not specify as to whom of the two beneficiaries should get which of the two vehicles, both the petitioners have succeeded to both the vehicles.

4. It is their further case that seeking transfer of name from the name of the deceased owner to their names, the petitioners made an application on 19.10.2015 before the respondent along with necessary fee and No Objection letters issued by both the petitioners for the transfer of ownership of the vehicles in favour of each other along with other requisite documents. On 23.10.2015, the respondent has rejected the petitioners' applications by directing them to submit their applications along with legal heirship certificate and no objection certificate from the other owner. Against the impugned orders passed by the respondent dated 23.10.2015, the petitioners are before this Court.

5. The grievance of the petitioners, according to the learned counsel for the petitioners is that the legal heirship certificate is not one of the documents that are required to be submitted for seeking transfer of ownership of vehicle under Rule 56 of Motor Vehicles Act. He would further contend that as there are no lineal descendants for the deceased, the Tahsildar has refused to give the legal heir certificate in favour of the petitioners herein and the same would be relevant only when a person dies intestate, but here, the deceased has bequeathed her properties including the vehicle in favour of petitioners by a registered Will. Therefore, necessity of production of legal heirship certificate as sought for by the respondent would not arise.

6. The learned Additional Government Pleader, on the other hand supported the orders under challenge.

7. I have heard the submissions made on both sides.

8. Since the deceased person was a nun, who relinquished all her family relationship and social relationship, there are no descendants to her. Hence the question of insisting for production Legal Heirship Certificate does not arise. The claim of transfer of ownership of vehicles is supported by the Registered Will executed by the deceased. Further, since, for registration of the respective vehicles in the names of respective petitioners, No Objection Certificates have been already issued, there may not be any impediment for the authority to register the vehicles as prayed for .

9. Accordingly, these writ Petitions are disposed of with a direction to the respondent/Registering Authority to register the respective vehicles viz., (i) Mahindra Bolero bearing Registration No.TN-01-AF-1606 and (ii) Maruti Esteem bearing Registration No.TN-07-AX.6789 in the names of the respective writ petitioners on the basis of the No Objection Certificates obtained by them, within a period of two weeks from the date of receipt of a copy of this order. However, if any rival claim subsequent to transfer is raised, the same shall be dealt with by the authorities in accordance with law. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msr/KM

To

The Assistant Registering Authority,
Chennai (Central),
Ayanavaram,
Chennai 600 023.

+1 cc to Mr.S.N.Namasivayam Advocate vide sr.66347/16
+1 cc to M/s.Government pleader vide sr.66613/16

W.P.Nos.36729 and 36730 of 2015

aa23/02/2016