



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2015

CORAM :

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

Writ Appeal(MD) No.210 of 2015

S.Rajendraprasad

...Appellant

Vs.

1.The Superintendent of Police,
Nagercoil Division,
Kanyakumari District.

2.The Inspector of Police (Traffic)
Nagercoil,
Kanyakumari District.

...Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 10.02.2015 made in Review Application No.7 of 2015 in W.P. (MD)No.13215 of 2014 on the file of this Court.

Prayer in REV.APLC(MD).7/2015 in WP(MD)No.13215/2014:

Petition filed under order 47 Rule 1 CPC, to review the order passed in WP(MD)no.13215 of 2014 dated 25.08.2014.

Prayer in WP(MD). 13215/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for the issue of a writ of Mandamus directing the respondents to release the mini bus bearing Registration No.TN 74 F 8636 which was seized on 6.8.2014 now in the custody of the 2nd respondent's office forthwith.

For Appellant

: Mr.P.Santhoshkumar

For Respondents

: Mr.M.Alagadevan

Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by S.TAMILVANAN,J)

Challenging the order dated 10.02.2015 passed in Review Application (MD)No.7 of 2015 in W.P(MD)No.13215 of 2014 by the learned single Judge, the writ appeal has been preferred by the appellant herein who was the petitioner before the learned single Judge.

2.Learned counsel appearing for the appellant submitted that the second respondent had seized the vehicle on the ground of violation of traffic rules by the driver of the mini bus belongs to the appellant . Aggrieved by which he filed the writ petition.

3.It is seen that by an order dated 25.08.2014, the learned single Judge disposed of the writ petition recording the submission made by the learned counsel appearing for the appellant that the appellant was prepared to pay the fees as indicated in the counter affidavit filed by the second respondent and produce all the relevant documents. However, a Review application was filed by the appellant and the same was dismissed



by the learned single Judge by imposing a cost of Rs.5,000/-, aggrieved by which this appeal has been preferred by the appellant/writ petitioner.

4.It is seen from the copy of the report filed by the second respondent that the appellant has owned a mini bus bearing Registration No.TN-74-F 8636 and operating the bus in the Kanyakumari District plying through the approved route of CB Hospital to Melakaruppukottai in Kanyakumari District which is the approved route for the said mini bus. However, on 06.08.2014 at about 8.45 a.m, the driver of the mini bus had driven the vehicle inside the Vadasery bus stand which is an unauthorised route for the said mini bus bearing Registration No.TN-74-F 8636. Due to the violation of the permitted route, spot fine of Rs.2,500/- was imposed, however, the fine amount was not paid and the relevant document was also not produced before the authority. Since the required documents were not available with the driver of the vehicle and fine amount was not paid, the said mini bus was seized by the second respondent under Sections 206 and 207 of the Motor Vehicles Act. Subsequently, notice was issued to produce necessary documents and to pay spot fine amount of Rs.2,500/-. However, the appellant did not produce relevant documents relating to the vehicle and also failed to pay the fine amount of Rs.2,500/-.

5.Learned Special Government Pleader submitted that as there are no original documents relating to the vehicle and it was plying on an unauthorised route, the fine was imposed as per the provision of law. Without complying with the same straight away the petitioner had approached this Court by way filing the writ petition invoking Article 226 of the Constitution of India that was disposed of directing compliance of the order passed by the respondent herein.

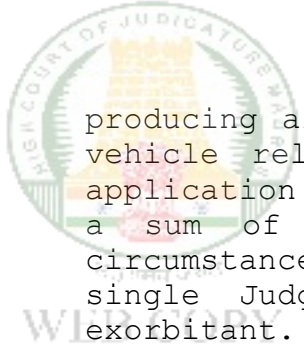
6.A perusal of the order shows that the appellant was directed to deposit a fine amount of Rs.2,500/- before the second respondent and produce all the relevant documents relating to the vehicle on the said condition, the second respondent was directed to release the vehicle.

7.Learned counsel appearing for the appellant submits that the Inspector of Police (Traffic), the second respondent herein is not the competent authority to pass the order and receive the fine amount by issuing receipt.

8.Learned Special Government Pleader also produced a copy of the Government Order in G.O.Ms.No.849, Home Department, dated 13.12.2011 whereby it is stated that the second respondent is the competent authority, even a Sub Inspector of Police (Traffic) could be authorised to release the vehicle, on payment of fine amount and on production of the required original documents.

9.Learned counsel appearing for the appellant submits that the learned single Judge while dismissing the review application has imposed a cost of Rs.5,000/- that is the grievance of the appellant.

10.It is well settled by the Hon'ble Apex Court that the precious time of the Court should not be wasted by any party. As the order passed by the learned single Judge is reasonable and also in accordance with law permitting the appellant to pay fine amount and after



producing all the relevant documents and on payment of fine, to get the vehicle released, without complying with the same, filing the review application was thought of consuming precious time of the Court whereby a sum of Rs.5,000/- was imposed towards cost. On the facts and circumstances, we cannot interfere with the discretion of the learned single Judge as it relates to cost which is only reasonable not exorbitant.

11. On the facts and circumstances, we are of the view that there is no error or infirmity in the impugned order passed in the review application so as to maintain the writ appeal. Hence, the writ appeal is liable to be dismissed confirming the order passed by the learned single Judge. Accordingly, the writ appeal is dismissed confirming the order passed by the learned single Judge. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Nagercoil Division,
Kanyakumari District.

2. The Inspector of Police (Traffic)
Nagercoil,
Kanyakumari District.

+1CC to M/s.P.Santhohkumar, Advocate in SR.14004
+1CC to the Special Government Pleader in SR.15457

Writ Appeal (MD) No.210 of 2015
25.03.2015

sms

PBK 10/04/2015 ::3P-5C: