

In the High Court of Judicature at Madras

Dated : 02.6.2016

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No.6140 of 2015

S.Krishnamurthy

...Petitioner

Vs.

1.The Regional Transport Officer,
Vellore.

2.M/s.Shriram Transport Finance Co.
Ltd., Chennai-4.

(R2 impleaded as per order dated 12.3.2015
by SVNJ in MP.No.1 of 2015)

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent herein to consider and pass orders on representation-cum-application dated 9.1.2015 in Form CFRA for the renewal of certificate of fitness in respect of the petitioner's contract carriage maxi cab vehicle bearing Registration No.TN-02-AQ-9721 and to pass orders in accordance with law.

For Petitioner : Mr.S.Govindaraman

For Respondent-1 : Mr.R.Lakshminarayanan,
Addl.Govt.Pleader

For Respondent-2 : Mr.K.S.Ramakrishnan

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has come up with the above writ petition to direct the first respondent to consider the representation-cum-application dated 9.1.2015 for renewal of the certificate of fitness in respect of the maxi cab vehicle bearing Regn. No.TN-02-AQ-9721.

3. Under normal circumstances, there would not have been any difficulty in issuing such a direction, as the Authority concerned is bound to consider the application on merits. But, in the instant case, there is a peculiar problem, since the vehicle was the subject matter of hypothecation with the second respondent.

4. The second respondent, in their counter affidavit, has stated that the petitioner has committed a fraudulent act by illegally removing the hypothecation endorsement made in the certificate of registration and also created a third party interest. The second respondent further stated that the vehicle was repossessed by them on 24.11.2014 and when the vehicle was kept in the parking yard, one third party by name Madhan had objected to repossession and created ruckus and was said to have taken away the vehicle and a criminal case of trespass and theft was lodged with the South Police, Vellore and a CSR has been issued.

5. Apprehending arrest, the petitioner filed a petition for anticipatory bail before this Court in CrI.O.P.No.2949 of 2015, which was disposed of based on the submission made by the learned Government Advocate (CrI.Side) that there is no first information report registered against the petitioner as on the date when the criminal original petition was heard.

6. Thus, the case of the second respondent is that the petitioner has not only committed fraudulent act by illegally removing the hypothecation endorsement, but also created a third party interest, which he is not entitled to do. It is further stated that as on date, a sum of Rs.7,52,545/- is due and payable by the petitioner to the second respondent.

7. Considering the peculiar facts and circumstances of the case, it is seen that the vehicle in question is not with the possession of the second respondent and it is doubtful as to whether the petitioner is in possession of the vehicle, especially when it appears that a third party interest has been created.

8. Thus, to resolve the issue, the writ petition is disposed of with a direction to the petitioner to produce the vehicle before the first respondent and the first respondent shall issue notice to the second respondent, peruse all the documents, examine the case and thereafter pass orders on merits and in accordance with law, after hearing the objections raised by the second respondent. It is made clear that this Court has not

issued any positive direction for renewal of the certificate of fitness. No costs.

RS

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Regional Transport Officer, Vellore.

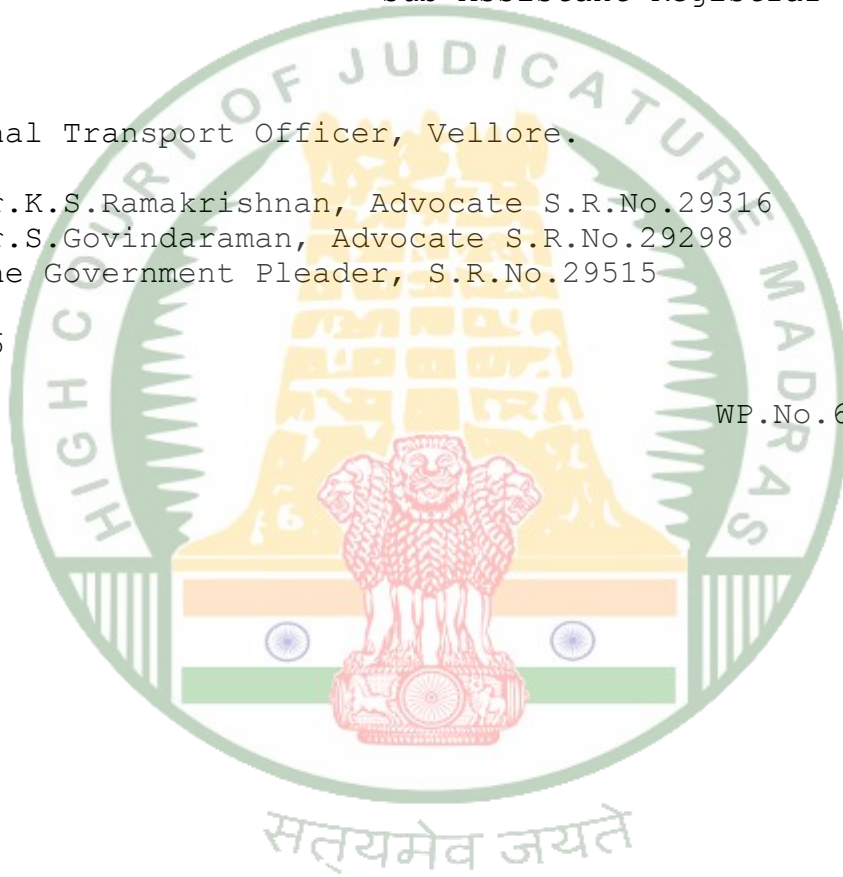
+1cc to Mr.K.S.Ramakrishnan, Advocate S.R.No.29316

+1cc to Mr.S.Govindaraman, Advocate S.R.No.29298

+1cc to the Government Pleader, S.R.No.29515

KR/10/6/16

WP.No.6140 of 2015



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