

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.36900 of 2016
and
W.M.P.No.31709 of 2016

R.Rani ... Petitioner

vs.

The Secretary,
State Transport Authority,
Puducherry ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus to direct the respondent herein to forthwith issue the duplicate Registration Certificate in respect of the petitioner's vehicle bearing Registration No.PY-01/AJ-6789, plying on the intra-state route "Pondicherry to Nettapakkam" for renewal of the Fitness Certificate.

For Petitioner : Mrs.S.Radha Gopalan

For Respondent : Mr.K.R.Harin, A.G.P.

ORDER

Heard Mrs.S.Radha Gopalan, the learned counsel for the petitioner and Mr.K.R.Harin, the learned Additional Government Pleader appearing for the respondent and with the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner in this writ petition seeks for issuance of a direction upon the respondent to forthwith issue duplicate Registration Certificate in respect of the vehicle bearing Registration PY-01/AJ-6789 plying on the intra-state route through 'Pondicherry to Nettapakkam' and for renewal of the fitness certificate.

3. The primary permit in respect of the stage carriage bearing Registration No.PY-01/AJ-6789 stands in the name of late Thiru R.Rajendiran, son of late Thiru Rajamanickam Gramany and late Tmt.R.Krishnaveni. The permit holder is the husband of the

petitioner, who died on 29.07.2008. After his demise, the petitioner submitted an application on 4.8.2008, intimating the death of the permit holder and requesting for transfer of the permit in her favour, as she was in possession of the vehicle. The deceased R.Rajendiran, is survived by his legal heirs, who are the petitioner, Vijayalakshmi, Ezhilarasi and Balaji and this is in terms of the decision of the Civil Court in O.S.No.1153 of 2008, on the file of the II Additional District Munsif Court, Puducherry, dated 17.12.2008. The request made by the petitioner for transfer of the permit has been kept on hold due to an order of status-quo granted by the Principal Sub Court, Puducherry in I.A.No.2312 of 2000.

4. It is stated by the respondent that the said stage carriage has been changed three times and this is also one of the properties, which is listed in the schedule of the plaint in O.S.No.72 of 2006 (O.No.572 of 2000). The permit, which continues to remain in the name of the dead person, namely, R.Rajendiran, has been renewed by the State Transport authority for a period of five years from 01.12.2012 to 30.11.2017, in view of the status-quo order by the Civil Court. While so, the petitioner submitted a letter on 01.08.2016 to the Transport Department, informing that the original registration certificate of the vehicle bearing No.PY-01-AJ-6789 was missing and endorsement of the complaint and a certificate from the Station House Officer, Nettapakkam Police Station, Puducherry, was produced. Simultaneously, the petitioner also sought for the renewal of the fitness certificate, which had lapsed on 20.04.2016.

The said application for issuance of Duplicate Registration Certificate was returned to the petitioner, on 17.08.2016, on the ground that she has not produced the vehicle for inspection and not produced the original certificate, the complaint letter with acknowledgement of Station House Officer, does not contain the seal of Police Department and it has not been applied by the registered owner. At this stage, the petitioner has filed this writ petition.

5. The learned counsel for the petitioner submitted that in terms of Rule 53 of the Central Motor Vehicle Rules, there is a specific power conferred on the registering authority to issue duplicate certificate of registration, if the certification of registration is lost or destroyed and the owner reports the same to the Police Station in the jurisdiction where it was lost or destroyed and intimates the same in writing. The petitioner having complied with such requirement in terms of Section 53(1) of the Rules, is entitled for a duplicate registration certificate.

6. The respondent, in his counter affidavit, would take a stand that the loss of the registration certification was intimated to the police by a third party, by name, Deivanayagam, claiming to be the registered owner of the vehicle bearing registration No.PY-01-AJ-6789 and not by the registered owner, since the Registered owner is no more, as he died on 29.07.2008. Further, the permit also is subject matter of the Civil Suit and there is an order of status-quo granted by the Civil Court. In such circumstances, this Court cannot issue any positive direction to the respondent, in the absence of the other parties, who are parties to the civil litigation.

7. The learned counsel for the petitioner submitted that all along the petitioner had been in possession of the original registration certificate and no prejudice would be caused in issuing the duplicate certificate to her in the name of the deceased owner Thiru Rajendiran.

8. This prayer has to be made and considered only in the presence of the other parties, who are parties to the civil suit. In their absence, such a positive direction cannot be issued to the respondent.

9. Accordingly, the writ petition is disposed of by directing the petitioner to file an application before the Principal Sub Court, Puducherry, in O.S.No.72 of 2006, for appropriate direction and for such purpose, the Secretary, State Transport authority, Puducherry, shall be made as a respondent in the interlocutory application.

10. The learned counsel for the petitioner submits that the vehicle has been stopped and it is against public interest.

11. However, when the matter pertaining to the right to the permit as well as the bus is pending before the Civil Court, and the renewal of the permit itself has been granted based on an order of status-quo granted by the civil Court, it is but appropriate for the petitioner to seek for any relief pertaining to the permit or the vehicle before the civil Court. Therefore, this direction is issued and considering the fact that the vehicle has been stopped, the civil Court shall consider the application as expeditiously as possible, preferably within a period of 45 days from the date on which the application is filed.

12. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Principal Subordinate Judge,
Puducherry.

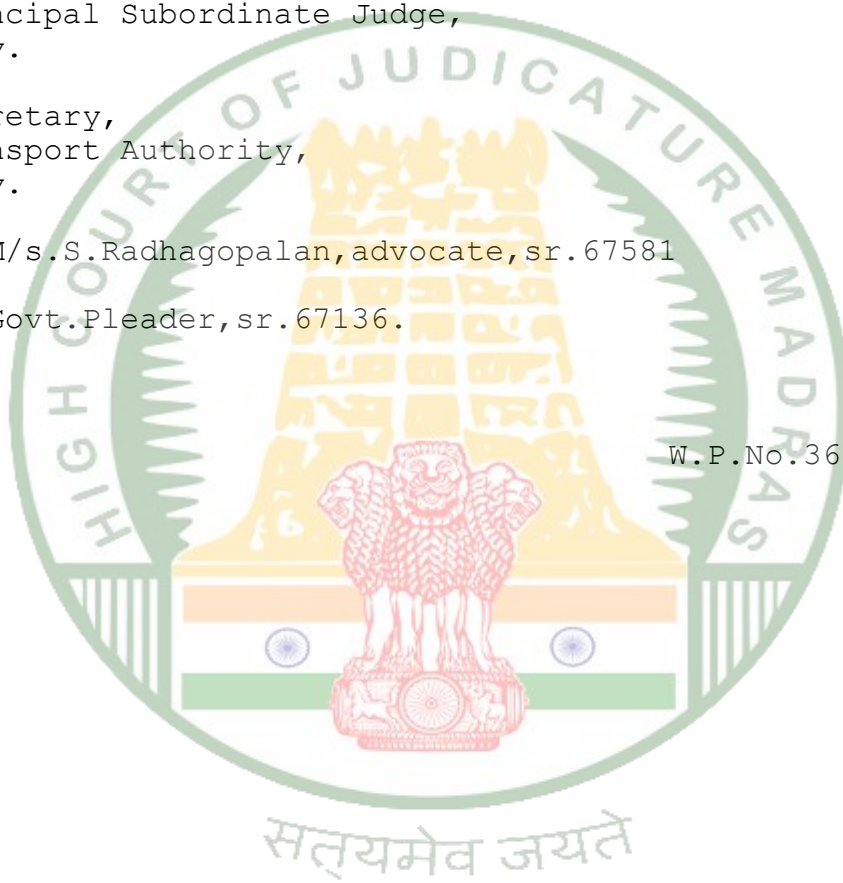
2.The Secretary,
State Transport Authority,
Puducherry.

+1 cc to M/s.S.Radhaagopalan,advocate,sr.67581

+1 cc to Govt.Pleader,sr.67136.

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