

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.40582 of 2016 &

WMP No.34579 of 2016

M.Lakshman .. Petitioner

..Vs..

The Regional Transport Officer
Office of the Regional Transport
Uthagamandalam. .. Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in Na.Ka.No.13917/B3/2016 dated 03.08.2016 and to quash the same and further to effect the transfer of ownership of the car bearing RegistrationNo.TN43 C7821 LMV in the name of the petitioner as per his representation dated 09.06.2016.

For Petitioner : Mr.M.Raja Sekhar

For Respondent : Mr.S.Diwakar
Spl. Government Pleader

O R D E R

Heard Mr.M.Raja Sekhar, learned counsel for the petitioner and Mr.S.Diwakar, learned Special Government Pleader accepting notice on behalf of the respondent. By consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner has come forward with this Writ Petition challenging the order passed by the respondent dated 03.08.2016, in and by which the respondent has refused to transfer the Registration Certificate of the Vehicle bearing Registration No.TN 43 C7821, in the name of the petitioner.

3.The undisputed facts are that the said vehicle was owned by one Thiru G.Govindarajulu. The petitioner claims that he along with one M.Balaji Rao, have been brought up by Thiru G.Govindarajulu and his wife Smt.Lakshmi Narasamma, as their foster sons. It is stated that the said Smt.Lakshmi Narasamma died on 01.04.2010, leaving behind Thiru G.Govindarajulu, as sole legal heir to succeed to her estate. Thiru G.Govindarajulu, is said to have executed a 'Will' dated 07.12.2011, registered as Document No.187/11, on the file of the Sub-Registrar, Coonoor, bequeathing certain properties in favour of the petitioner as well as the said M.Balaji Rao. It appears that the testator G.Govindarajulu owned three vehicles viz. (i) Maruthi Omni Car bearing Registration No. TN 43 4145 (ii) Verna Car bearing Registration No.TN43 C7821 and Maruthi Van bearing Registration No.PY 01 0625. Maruthi Omni Car was bequeathed in the name of the petitioner's wife Tmt.Nalini and the other two vehicles in the name of the petitioner. During the life time of G.Govindarajulu, it appears that he had sold Maruthi Omni Car bearing Registration No.TN 43 B 4145 and Maruthi Van bearing registration No.PY 01 0625. Thus, the only vehicle which was retained by Mr.G.Govindarajulu, is the vehicle bearing Registration No.TN43 C7821. The said G.Govindarajulu died on 23.10.2013 at Coonoor. The petitioner now seeks to implement the wish of the testator by transferring the Registration Certificate of the vehicle bearing Registration No.TN43 C7821 in his name, thereby sell the vehicle and share the sale proceeds between himself and Thiru M.Balaji Rao.

4.When an Application for transfer of the Registration Certificate of the vehicle was made to the respondent by an Application dated 09.06.2016, along with the copy of the registered 'Will', the respondent had taken legal opinion from the District Government Pleader and stated that the petitioner should obtain probate of the 'Will and produce 'Letters of Administration' issued in favour of the petitioner. The reason for rendering such a finding is because the sale proceeds have to be shared by the petitioner with M.Balaji Rao.

Therefore, the respondent was of the view that the petitioner should obtain a probate on registered Will.

5.In my considered view, since the vehicle in question is a movable asset, there appears to be no other rival claimant and the sale proceeds have to be shared between the petitioner and M.Balaji Rao, a workable solution could be made so that the testator's wish can be carried out. However, this view of the Court is only pertaining to the vehicle in question and does not pertain to any of the immovable assets or other assets that might have been bequeathed under the said 'Will'. Hence, for

all the above reason, the following order would meet the ends of justice.

6.The respondent is directed to issue notice to Thiru M.Balaji Rao, direct him to appear in person and give statement. If the said M.Balaji Rao consents for implementing the conditions in the 'Will' by transferring the registration certificate in favour of the petitioner and agreeing to work out his share with the petitioner, then after obtaining suitable undertaking, the respondent shall effect transfer of the Registration Certificate of the vehicle bearing Registration No.TN43 C7821, in the name of the petitioner with the consent of Thiru M.Balaji Rao. It is reiterated that this order is only pertaining to the transfer of registration of the vehicle bearing Registration No.TN43 C7821 and will not in any manner come to the assistance of the petitioner in respect of other assets which have been bequeathed under the said 'Will'.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpa

To

The Regional Transport Officer
Office of the Regional Transport
Uthagamandalam.

+1cc to Mr.M. Rajasekhar, Advocate, S.R.No.66764
+1cc to the Government Pleader, S.R.No.67541

rsy(CO)
md(10/12/2016)

W.P.No. 40582 of 2016