



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.14085 of 2016

R.Srinivasan

... Petitioner

-vs-

1. The State Transport Appellate Tribunal,
Chennai-104.

2. The Regional Transport Authority,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the 2nd respondent to transfer the bus plying permit in respect of the route Tirunelveli to Karayar standing in the name of Parijathammal to the name of the petitioner in the light of the order passed by the 1st respondent in Appeal No.22 of 2014 dated 24.09.2014.

For Petitioner : Mrs.Porkodi Karnan
For Respondents : Mr.S.Kumar,
Addl. Govt. Pleader

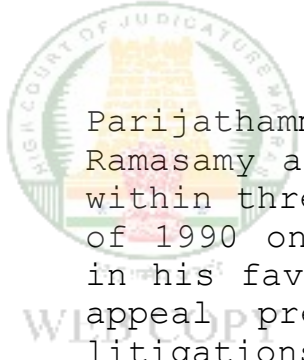
O R D E R

This petition has been filed, seeking to direct the 2nd respondent to transfer the bus plying permit in respect of the route Tirunelveli to Karayar standing in the name of Parijathammal to the name of the petitioner in the light of the order passed by the 1st respondent in Appeal No.22 of 2014 dated 24.09.2014.

2. Heard the learned counsel on either side.

2.1. The petitioner is the brother's son of the original permit holder Srinivasa Naidu.

3. The case of the petitioner is that the route permit between Tirunelveli to Karaiyar was originally standing in the name of one Srinivasa Naidu and after his demise, it was transferred in the name of his wife, namely, Parijathammal and she died on 18.08.1987 without any issues; that dispute arose between the petitioner's father (brother of the deceased Srinivasa Naidu) and one Kanchana (daughter of Parijathammal's brother), who is the adopted daughter of the said Parijathammal; that the death of



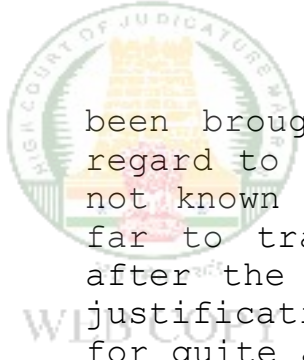
Parijathammal was intimated within 30 days of her death by Ramasamy and he also sought for transfer of permit in his favour within three months; that Ramasamy also filed a suit in O.S.No.101 of 1990 on the file of Sub Court, Tirunelveli, which was decreed in his favour, but the judgment was reversed by this Court on the appeal preferred by Kanchana; that after several rounds of litigations, finally the Letter Patent Appeal filed by Ramasamy in LPA No.71 of 1997 was allowed on the ground there is no proof for adoption of Kanchana by Parijathammal, by declaring Ramasamy as legal heir of Srinivasaga Naidu as per the provisions of Section 15(1)(b) of the Hindu Succession Act, against which appeal preferred by Kanchana before the Apex Court was subsequently withdrawn by her and thus the issue attained finality.

3.1. The petitioner approached the 2nd respondent for transfer of permit / renewal in his name pursuant to the death of his father (Ramasamy) and filed necessary documents; that the 2nd respondent rejected the request of the petitioner on the ground that there was no subsequent application for renewal of permit from 2011 onwards and there was also delay in filing the application; that aggrieved by the same, he filed an appeal before the 1st respondent in Appeal No.22 of 2014, by which the order of rejection passed by the 1st respondent was set aside by observing as under:

"14. Now the appellant, after won the legal battle, is legally protected operator, and hence, submitted the application for transfer of permit along with the documents and required fees. Thus, the Regional Transport Authority, ought to have taken a lenient view in the case of condoning the delay in submitting the transfer of permit application with a long delay due to legal battle between the parties and ordered for transfer of permit in the name of the appellant herein. But, without considering these aspects, the Regional Transport Authority has straightaway rejected the application for transfer of permit of the appellant. Hence, for the above reasons, the order of the Regional Transport Authority is not sustainable in the eye of law and hence, to be set aside and accordingly allowed and these point is answered accordingly."

3.2. Despite the order passed by the 1st respondent, even after several representations, the last one of which was on 29.09.2014, the 2nd respondent has not taken any steps to renew his application and transfer the permit in his name and therefore, having left with no other option, the petitioner is before this Court with the relief stated supra.

4. It is seen that the issue as to who is the legal heir of the deceased Sr. Srinivasa Naidu went upto the Supreme Court and attained finality in favour of the petitioner's father / Ramasamy, who expired during the pendency of the case and the petitioner has



been brought on record and that there is also no dispute with regard to his legal heirship. In spite of all these factors, it is not known as to why the 2nd respondent has not taken any steps so far to transfer the permit in the name of the petitioner even after the orders passed by the 1st respondent; that there is no justification for the 2nd respondent in keeping the matter pending for quite a long time and the only exercise that could now be done by the 2nd respondent is to consider the request of the petitioner for renewal of the permit and its transfer in the light of the order of the 1st respondent passed in Appeal No.22 of 2014 dated 24.09.2014.

5. Under such circumstances, the 2nd respondent is directed to consider the representation dated 29.09.2014 and the application dated 14.10.2014, given by the petitioner for transfer of the permit in the name of the petitioner and for renewal of the permit of the bus to ply from Tirunelveli to Karayar and to pass suitable orders thereon within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(co)

/True copy/

Sub Assistant Registrar

To:

1. The State Transport Appellate Tribunal,
Chennai-104.
2. The Regional Transport Authority,
Tirunelveli District,
Tirunelveli.

+1cc to M/s.Porkodi Karnan, Advocate SR.No.5718
+1cc to special Government Pleader SR.No.56625

ar

sm:GSV-PM:SAR 3:27/12/2016:3P/5C

W.P(MD) No.14085 of 2016
28.09.2016