



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.19787 of 2016

Parvin

... Petitioner

-vs-

1. The Transport Commissioner,
Chepauk, Chennai.
2. The Regional Transport Officer,
Karur.
3. Motor Vehicle Inspector Grade-I,
Office of the Regional Transport Officer,
Karur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of mandamus, directing the respondents to release the vehicle of the petitioner bearing Regn.No.TN 72 AH 7426 forthwith.

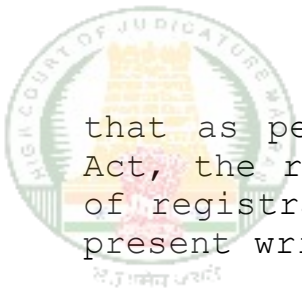
For Petitioner : Mr.J.Anandkumar
For Respondents : Mr.V.Muruganandam
Govt. Advocate

O R D E R

This petition has been filed, seeking to direct the respondents to release the vehicle of the petitioner bearing Regn.No.TN 72 AH 7426 forthwith.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

3. The case of the petitioner is that the petitioner has been plying Omni Bus bearing Regn.No.TN 72 AH 7426 from Trichy to Chennai and the said vehicle was transferred in her name on 10.02.2016; that on 28.08.2016, when the bus was on its way to Karur for some maintenance works, the said vehicle was impounded by the 2nd and the 3rd respondents on the ground that it carried extra five seats and the bus was taken to the 1st respondent of the respondents. The petitioner has submitted detailed representations dated 16.09.2016 and 28.09.2016 to the 1st respondent for release of the vehicle, which were not at all considered by the 1st respondent;



that as per the proviso to Section 207(1) of the Motor Vehicles Act, the respondent shall have the power to seize the certificate of registration and not the vehicle itself and so contending, the present writ petition has been filed with the relief stated supra.

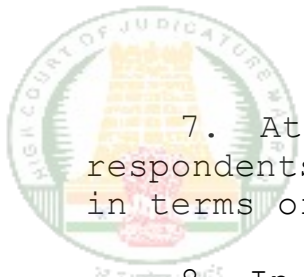
4. For the sake of easy reference, it is appropriate to extract Section 207 of Motor Vehicles Act, which reads as under:

"207. Power to detain vehicles used without certificate or registration permit, etc.-(1) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of Section 3 or Section 4 or Section 39 or without the permit required by sub-section (1) of Section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, in the prescribed manner and for this purpose take or cause to be taken by any steps he may consider proper for the temporary safe custody of the vehicle:

Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used in contravention of Section 3 or Section 4 or without the permit required by sub-section (1) of Section 66 he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof."

5. Perusal of the above provisions would go to show that the authority concerned shall seize a vehicle and retain the same in case he has reason to believe that the vehicle has been used in contravention of Sections 3 (Necessity for driving licence), 4 (Age limit in connection with driving of motor vehicles), 39 (Necessity for registration) and Sub-Section 1 of Section 66 (Necessity for permits) and alternatively, the authority concerned may, instead of impounding the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof.

6. The possession of the valid permit is not in dispute and the only ground for seizure of the vehicle by the respondents is that it carried five seats in excess than the prescribed limit. For such violations, there is no justification with the respondents to seize the vehicle and to keep the same idle for months together in the respondent office. Having regard to the nature of the violations alleged, it is appropriate that the respondents shall seize the certificate of registration of the vehicle and release the vehicle with conditions.



7. At this juncture, learned Government Advocate for the respondents would submit that the conditions to be imposed may be in terms of deposit of cash.

8. In reply to the above, learned counsel for the petitioner would reciprocate that the petitioner is willing to deposit Rs.50,000/- to the 1st respondent towards release of the vehicle.

9. In view of the above submission, the petitioner shall deposit a sum of Rs.50,000/- to the credit of the account maintained by the 1st respondent as security for release of the vehicle. The 1st respondent is directed to get the certificate of registration from the petitioner, issue an acknowledgement in respect thereof and to release the vehicle forthwith on the petitioner depositing a sum of Rs.50,000/-. It is made clear that this order will not be an impediment for the 1st respondent to consider the case of the petitioner on merits and in accordance with law.

With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar.

To:

1. The Transport Commissioner,
Chepauk, Chennai.
2. The Regional Transport Officer,
Karur.
3. Motor Vehicle Inspector Grade-I,
Office of the Regional Transport Officer,
Karur.

+1CC to M/S.J. Anandkumar, Advocate, SR.No.60781
+1CC to the Special Government Pleader, SR.No. 60893

W.P(MD) No.19787 of 2016
14.10.2016

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AM/CK/SAR-III/17.10.2016/3P/6C (IT)