

Civil Revision No.4944 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R.No.4944 of 2016 (O&M)

Date of Decision: August 4th, 2016

The Virk Co-operative Transport Society Limited, Ambala & others

...Petitioners

Versus

The State of Haryana & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Amit Jhanji, Advocate,
for the petitioners.

AMIT RAWAL, J.

The petitioner-plaintiffs are aggrieved of the impugned judgment rendered by the District Judge, Kurukshetra allowing the Misc.Appeal filed at the instance of the respondent-defendants against the order passed by the trial Court granting ad interim injunction in favour of the petitioner-plaintiffs.

Mr.Amit Jhanji, learned counsel for the petitioner-plaintiffs submits that the petitioners are Co-operative Transport Societies, which were earlier plying their buses under the routes allotted to them under the

approved Stage Carriage Scheme, 1993 and in view of the promulgation

of the new notification dated 12.8.2013 approving the Stage Carriage Scheme of 2013, petitioners started plying their buses under the aforementioned Scheme in pursuance to the permits Annexure-P1 collectively and as per the permits, petitioners were allotted Route No.17, i.e., Ambala City to Pipli via Ambala Cantt Shahabad. Clause 5 of the permit granted to the petitioners clearly mentions that petitioners shall ply their buses as per the permit on specific routes from the bus stands, which have been declared by the RTA. Pipli Town comes within Municipal Limit of Thanesar and, thus, there are two notified bus stands under the provisions of Motor Vehicles Act and Haryana Motor Vehicles Rules, i.e., New Bus Stand Kurukshetra and Old Bus Stand Thanesar, Kurukshetra, which are evident from site plan Annexure-P2. The buses of the petitioners were made to halt at the National Highway Bus Stand Pipli and as per Rules, 1993, no stage carriage shall be halted in an urban area on a notified bus stop for more than five minutes consecutively for the taking up or setting down of passengers or at any time during the course of a run except at a bus stand and bus stand notified by the RTA is prescribed under Rule 2. He submits that Rule 192 gives classification of bus stands. The buses of petitioners are made to halt and start their journey from bus stand, i.e., the National Highway

Bus Stand Pipli, Kurukshetra, which is not even a notified bus stand.

Aggrieved of the same, the petitioners filed a suit for permanent injunction with consequential relief of mandatory injunction and sought ad interim injunction. The Civil Court vide order dated 3.11.2015 allowed the application noticing the fact that Pipli Bus Stand is situated on the opposite side of the road which leads from Ambala to Kurukshetra and the passengers cannot board the buses if the same are made to stand at Pipli Bus Stand, particularly the passengers, who wanted to go to Delhi. The respondent-defendants filed misc.appeal and the same has been allowed. It is in these circumstances, the present revision petition has been filed against the order dated 5.5.2016 (Annexure P-9) being fallacious and erroneous and in contravention of the provisions of Section 94 of the Motor Vehicles Act, 1988 (for short “1988 Act”) vis-a-vis bar on jurisdiction of the Civil Court.

He further submits that the said bar would not apply when the petitioners are not aggrieved against the grant and non-grant of the permits. The suit had been filed only with regard to the halting and plying of the buses. The same would not come within the ambit of Section 94 of 1988 Act.

He further submits that the District Judge has further failed to take into consideration the fact that the respondent did not bring on record any notification to show that National Highway Bus Stand Pipli

is a notified Bus Stand. The permits issued to the petitioners are under the approved Stage Carriage Scheme, 2013. The District judge has also overlooked Rule 186 (4) of the Haryana Motor Vehicle Rules, 1993, which clearly provides that the run of any stage carriage vehicle shall start or finish in an urban area at a bus stand unless specifically exempted by the Regional Transport Authority (for short “RTA”). However, in the instant case, the journey of the petitioners' buses start from the notified bus stand situated in the urban area at Ambala City, which is supposed to finish at the notified bus stand in an urban area, but since there are two notified bus stands, i.e., new Bus stand at Kurukshetra and old Bus Stand at Thanesar, Kurukshetra where the journey of the petitioner's buses should lawfully end, but the respondents in a totally illegal and arbitrary manner are forcing the vehicles to end their journey at a bus stand which is not notified and in this regard, he has relied upon the following judgments of various Courts entertaining the plea of the similarly situated persons:-

- 1) **Dinesh Kumar Yadav Versus State of Bihar and others, 1999 AIR (Patna) 213;**
- 2) **Shramik Samaj Kalyan Sangh, Pariwahan Nigam, Aligarh Region through its Regional President Versus State of U.P., through Secretary, Pariwahan and Ors.,**

2006 (62) ALR 274; and

3) Municipal Board, Pushkar Versus State Transport Authority, Rajasthan and others, 1965 AIR (SC) 458.

I have heard the learned counsel for the petitioners, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the petitioners. First of all, all the judgments, aforementioned, have been dealt with by taking the facts of each case in a petition filed under Article 226 of the Constitution of India and not in a suit. The ad-interim injunction granted by the trial Court, in my view, tantamounts to decreeing the suit, which is not permissible in law.

I am of the view that the petitioners are bound by the terms and conditions of the permits granted to them as full fledged bus stand is existing in Pipli in 10 acres of land with proper amenities and proper parking space for plying of buses. The abovesaid bus stand is inter State Bus Stand which is being used by the bus operators of various States. New Bus Stand Kurukshetra and Old Bus Stand Kurukshetra do not fall on the route from Ambala City to Pipli and under Clause 5 of the 2013 Scheme, no extension, curtailment, variation or alteration in the route is permissible. As per the findings of the Lower Appellate Court, there is no bus stand on both sides of G.T.Road in Panipat, Ganaur, Samalkha

throughout the the State of Haryana, yet the private operators are plying their buses in whole of Haryana.

In my view, while rendering findings by the Lower Appellate Court with regard to the grievance, liberty has been granted to the petitioners to make the representation. It is the conceded position on record the plaintiffs have been issued route permits for plying their buses on route No.17, i.e., Ambala City to Pipli via Ambala Contonment and Shahabad. New Bus Stand Kurukshetra is situated within the revenue estate of Village Ratgal, whereas Old Bus Stand Kurukshetra is situated within the revenue estate of Derra Kalan, but both the bus stands are not situated within the revenue estate of Pipli and do not fall on the route from Ambala City to Pipli, thus, the petitioners cannot ply their buses beyond Pipli and enter into New Bus Stand Kurukshetra and Old Bus Stand Kurukshetra respectively, which is about 3 and 6 kilometers away there from in the absence of extension of route permits by competent authority. Even though the jurisdiction of the Civil Court can be pressed into service in case there is gross illegality when the orders challenged are without jurisdiction, but the relief sought is not of such a nature, therefore, *prima-facie*, I am in agreement with the findings given in the order of the Lower Appellate Court, Kurukshetra allowing the misc.appeal of the respondents.

Accordingly, the order under challenge is upheld and the revision petition stands dismissed.

Nothing stated in this order shall be construed as an expression on the merits of the matter.

August 4th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No