

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.02.2017

Coram

The Hon'ble Mr.Justice NOOTY. RAMAMOHANA RAO
and
The Hon'ble Mr.Justice S.M.SUBRAMANIAM

W.A. No.50 of 2017 and C.M.P.No.794 of 2017

V.Palanivel

.. Appellant

Versus

The Regional Transport Authority
Namakkal (North).

.. Respondent

Appeal filed under Clause 15 of the Letters Patent, against the order dated 12.8.2016, passed in W.P.No.11605 of 2016, by the learned single Judge. This writ petition is filed under Article 226 of the constitution of India seeking for a writ of mandamus, directing the respondent herein to forthwith permit the petitioner pursuant to his application dated 21.01.2016 to run his minibus Vehicle No.TN-39/AJ-7983 plying on the route Rasipuram Bus Stand to Thoppapatti Mariyamman Koil Via. Koneripatti Municipal Limit (Veterinary Hospital) Mettukaducolony Kakkaveri Kakkaveri piriu S.C.Street Venkayapalayam Seerapalli touching Oduvankurichi (touching) water tank milk society Tho. Jedarpalayam Sandai to ply via. Rasipuram Bus stand Koneripatti Erikkarai Pirivu Road Kongu Kalyana Mandapam to reach the destination till such time the road is repaired and in road worthy condition.

For Appellant

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Mrs.S.Radha Gopalan

For Respondent

..

Mrs.A.Srijayanthi, Spl.G.P.

JUDGMENT

(Delivered by NOOTY.RAMAMOHANA RAO, J)

This appeal is directed against the order rendered on 12.08.2016, by the learned single Judge, disposing of the writ petition preferred by the appellant, with certain directions.

2. The short grievance of the writ petitioner/appellant was that initially it was his father who was granted a permit to ply the minibus on the route Rasipuram Bus-Stand to Thoppapatti

Mariamman Koil via, Koneripatty, Mettukadu, Kakkaveri, Kakkaveri Pirivu, S.C.Street, Vengayapalayam, Seerapalli, Oduvankurichi (touching), Water Tank, Milk Society, Tho.Jedarpalayam, Sandai, in respect of vehicle No.TN-39/AJ 7983, and after the demise of his father, the permit stood transferred in the name of the writ petitioner/appellant, by an order passed by the Regional Transport Authority, Namakkal (North), on 09.07.2015. The permit is valid up to 06.11.2020. The writ petitioner/appellant has submitted a representation on 21.01.2016 to the Regional Transport Authority, Namakkal (North), seeking permission to ply the minibus on an alternative route till the road in question is repaired. The basis for making any such claim for plying vehicle on an alternative route was the letter dated 24.02.2016 said to have been issued by the Commissioner, Rasipuram Municipality, stating that the condition of the road between Mettukadu Homeopathy Medical College to Kakkaveri, 700 meters out of a length of 1230 meters, falls under the Rural Infrastructure Scheme and for the remaining portion of the 350 meters necessary steps are being taken by the Municipality for laying road. It is therefore, urged by the writ petitioner/appellant that till such time the roads are so laid, he may be permitted to ply the minibus on an alternative route. It is also the submission of the writ petitioner/appellant that underground drainage work is taken up by Rasipuram Municipality and because of the ongoing Civil Works relating thereto, the road condition has become practically un-motorable. He therefore, urged for permission for plying the vehicle on an alternative route.

3. The learned single Judge has placed reliance upon two specific reports dated 18.04.2016, one made by the Motor Vehicle Inspector, Grade-I of the area concerned and the other by the Commissioner, Rasipuram Municipality. Both the reports vouched for the road worthiness of the route on which the permit was granted. This apart, there is one other minibus which is plying on the same route. Further, the minibus operators who are plying their vehicles on the proposed alternative route have raised an objection in as much as there is an overlapping of little more than 2 Kilometers on the alternative route suggested by the writ petitioner/appellant. Further, importantly there were violations indulged in by the petitioner/appellant on his assumption that the road condition was not motorable. The cumulative effect of all these factors would unmistakeably reveal that the controversy involved is completely a factual one. Seldom collection of evidence both oral and documentary is resorted to in an exercise under Article 226 of the Constitution, though collection of evidence is not forbidden in that sense of the word.

4. In view of the controversy which is mired in disputed questions of fact, we do not find any warrant to interfere with the order passed by the learned single Judge and hence, the writ appeal stands dismissed at the admission stage. No costs. Consequently, C.M.P.No.794 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gr.

Copy to:
The Regional Transport Authority, Namakkal (North).

+1cc to Mr.S. Radhagopalan, Advocate, S.R.No.6752
+1cc to the Government Pleader, S.R.No.6408

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W.A.No.50 of 2017

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