

In the High Court of Judicature at Madras

Dated: 24.01.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.1616 of 2017
& WMP No.1578 of 2017

R.Gokulraj

.... Petitioner

vs.

1. The Regional Transport Authority,
Namakkal (North)

2. The Secretary
Regional Transport Authority,
Namakkal (North)

3. Tmt. A.Divya

4. Tmt.R.Sujatha

5. Miss.R.Tharanya

6. Miss.R.Srimathi

.... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of mandamus directing respondent Nos.1 and 2 herein to grant the transfer application for transfer of permit in respect of the Stage Carriage Permit plying on the route "Salem to Namakkal" along with vehicle No.TN-30/AE-4447 and Spare Bus permit bearing Registration No.TN-28/AK-8510 in the name of the petitioner from the name of the deceased permit holder Thiru.V.Raja Gounder, petitioner's father.

For Petitioner : Ms.Radha Gopalan

For Respondents: Mr.Akhil Akbar Ali, G.A. - R1 and R2

O R D E R

1. This is a Writ Petition, wherein, the prayer made, effectively, is that, respondent Nos.1 and 2 be directed to transfer the permit in respect of Stage Carriage Permit vehicle No.TN-30/AE-4447 and Spare Bus permit bearing Registration No.TN-28/AK-8510 in favour of the petitioner.

1.1. These vehicles, as averred in the petition, are plying the Salem - Namakkal route.

2. It is the petitioner's case that, his father Thiru.Raja Gounder, was holding permits qua the said vehicles, before his death. The petitioner avers, that there are two (2) permits available for each of these vehicles. The permit with respect to the vehicle bearing Registration No.:TN-30-AE-4447 is valid till 30.04.2010, while permit vis-a-vis the vehicle bearing Registration No.:TN-28/AK-8510 is valid till 11.11.2019.

2.1. The petitioner further avers that, his father, i.e., Thiru.V.Raja Gounder, died on 20.08.2016, leaving behind the following legal heirs, including himself:

- (i) Tmt.A.Divya, Daughter, aged 32 years
- (ii) Tmt.R.Sujatha, Daughter, aged 31 years
- (iii) Selvi R.Tharanya, Daughter, aged 26 years
- (iv) Selvi R.srimathi, Daughter, aged 24 years

2.2. The petitioner states that information with regard to the death of his father, i.e., the permit holder, was given to respondent No.1, within the stipulated period of 30 days, as required under Section 82(2) of the Tamil Nadu Motor Vehicles Act, 1988 (in short 'the 1988 Act').

2.3. It is also the case of the petitioner before me that, he succeeded to the possession of the aforementioned vehicles, and that, tax qua the said vehicles had been paid by him, uptill 30.03.2017.

2.4. It is, in this context, that the petitioner applied, apparently, for transfer of permits qua the said vehicles in his favour.

3. Evidently, respondent No.2, invoking Rule 214 of the Tamil Nadu Motor Vehicles Rules, 1989 (in short 'the 1989 Rules') sought No Objection Certificate (NOC) of other legal heirs. The petitioner's case before me, is that, all other legal heirs, save and except, i.e., Tmt.A.Divya, have given their NOC, to transfer permits in his name.

3.1. As a result of this position obtaining, a notice dated 28.12.2016 was issued by respondent No.1, fixing a date of hearing on the application moved by the petitioner for transfer of permits qua the aforementioned vehicles.

3.2. The matter was, accordingly, heard on 04.01.2017. Even according to the petitioner, Tmt.A.Divya, at the said hearing, objected to the transfer of permits in the name of the petitioner.

3.3. It is the case of the petitioner that respondent No.1 has adjourned the hearing sine die and, therefore, would cause detriment to the interest of the petitioner.

4. Having regard to the aforesaid facts and circumstances, I have, for the moment, thought it fit, not to issue notice to the private respondents, i.e., respondent Nos.3 to 6. The reason for the same, as is obvious, is that, there is no order, as yet, passed by respondent No.1.

4.1. In so far as respondent Nos.1 and 2 are concerned, these are authorities represented by Mr.Akhil Akbar Ali.

4.2. In view of the order that I propose to pass, Mr.Akhil Akbar Ali has informed to me that he did not wish to file a counter affidavit.

5. Ms.RadhaGopalan, learned counsel, who appears for the petitioner, says that, the authority concerned is required to transfer the permits in favour of the person, succeeding to the possession of the vehicles. Learned counsel for the petitioner, thus, submits that, since, the petitioner has succeeded to the possession of the aforementioned vehicles, the permit has to be transferred in his favour.

5.1. Furthermore, it is the submission of the learned counsel for the petitioner that, the objector Tmt.A.Divya, has not filed an application for transfer of permit in her favour.

5.2. In sum, it is the submission of the learned counsel for the petitioner that the transfer of permits is not dependent on subsistence of a heritable right, but on a possessory right. In support of this submission, reliance is placed on the language used in Section 82(2) of the 1988 Act.

5.3. Furthermore, learned counsel for the petitioner says that, a delay in arriving at a decision works to the detriment of general public and, would also, result in the vehicles lying idle.

6. Mr.Akhil Akbar Ali, on the other hand, says that the matter is still pending with respondent No.1 and, therefore, the Writ Petition instituted is, at least at this stage, not maintainable, being pre-mature.

7. Having heard the learned counsel for the parties and perused the record, according to me, respondent No.1 cannot take the easy course of adjourning the matter sine die. Respondent No.1 would have to decide the matter, one way or other, and reach a conclusion with regard to the issue at hand.

8. Therefore, respondent No.1 is directed to decide and rule upon the application filed by the petitioner, bearing in mind, the judgments of this Court, on the matter in issue, including the following orders/judgments:

i) Order dated 17.09.2012, passed in M.P.No.1 of 2012 in W.P.No.23996 of 2012, titled: K.P.Shanmugham V. Regional Transport Authority, Salem, and others';

ii) Order dated 27.04.1989, passed in W.P.Nos.1397 and 1398 of 1989 and 1519 and 1520 of 1989, titled: K. VEDIAMMAL and others V. The Regional Transport Authority and others.

8.1. Needless to say that the said exercise will be carried out, with due expedition, though, not later than ten (10) days from the date of receipt of a copy of the order.

9. Respondent No.1 will afford due opportunity of personal hearing to all the parties herein, in particular, to those, who object to the transfer of permit in favour of the petitioner, and thereafter, pass a speaking order; a copy of which will be given to all the parties herein.

10. The Writ Petition is disposed of in terms of the aforementioned directions. Resultantly, connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1 The Regional Transport
Authority Namakkal (North)

2 The Secretary
Regional Transport Authority
Namakkal (North)

3 Tmt.A.Divya
W/o.K.Aravindkumar
G-26 A.V.Residency
A.V.High Fields Viswasupuram
Saravanampatty
Coimbatore- 641 035

4 Tmt.R.Sujatha
W/o.Balasubramaniam D.No.102 Kottampatty
Akampatty Via Tiruchengode Taluk
Namakkal District

5 Miss.R.Tharanya
D/o.Late V.RajaGounder
D.No.9-124 Kullappanaickanur
Thippampatty Post
Salem District

6 Miss.R.Srimathi
D/o.Late V.Raja Gounder
D.No.9-124 Kullappanaickanur
Thippampatty Post
Salem District.

+1cc to Mr.K.Hariharan, Advocate sr.4473 [30/01/2017]

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