



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.978 of 2017

and

C.M.P. (MD) No.6644 of 2017

Joseph Fernando

.. Appellant

Vs.

1.S.Palavesam,

2. The Principal Secretary to Government,
Transport Department,
State of Tamil Nadu,
Secretariat,
Chennai.

3. The Transport Commissioner,
Transport Department,
Ezhilagam,
Chepauk,
Chennai.

4. The Deputy Commissioner,
Transport Department,
NGO Colony,
Palayamkottai,
Tirunelveli District.

5. The Regional Transport Authority / District Collector,
Nagercoil,
Kanyakumari District.

6. The Superintendant of Police,
Nagercoil,
Kanyakumari District.

7. The Regional Transport Officer,
Regional Transport Office,
Nagercoil,
Kanyakumari District.



8. The Executive Officer,
Kanyakumari Special Grade Town Panchayat,
Kanyakumari,
Kanyakumari District.

9. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

10.A.Nagalingam

11.N.Aravinth

12.C.Sundar

13.K.Anilkumar

14.Prakash

.. Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order passed in W.P.(MD) No.7524 of 2016, dated 15.03.2017.

Prayer in WP(MD). 7524/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue WRIT OF MANDAMUS directing the Respondents No.1 to 8 to prevent the operation of contract carriage vehicles like Maxi Cabs under the system of Package system of collecting individual fares by the Respondents No.9 to 14 as that of plying stage carriage in and around Kanyakumari District and Tirunelveli District in contravention of Tamil Nadu Motor Vehicle Act and Rules, 1989.

For Appellant	: Mr.S.C.Herold Singh
For Respondents	: Mr.S.Balamurugan

JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

This Writ Appeal is directed against the order of the learned Single Judge of this Court, in W.P.(MD) No.7524 of 2016, dated 15.03.2017.

2. After hearing the parties at length and taking note of the stand of the official respondents, the learned single Judge passed the following order:-

<https://hcservices.ecourts.gov.in/hcse/hvices/>.22. In view of the above, the concerned authorities, respondents 1 to 8 are directed to ensure



that the travel agencies like respondents 9 and 11 shall not permit contract carriage operators or their agents like respondents 9 and 11 to fix/collect individual fares for/from the passengers travelling in the contract carriage and the authorities concerned shall take appropriate legal action against the violators including 11th respondent and take necessary action against violators for having misused the license issued under Rule 234(2) of Tamilnadu Motor Vehicle Rules and also for having violated their permit conditons of respective contract carriages involved in this issue viz., Registration No.TN74-AB-9936 owned by 14th respondent and TN-75-C-4026 owned by the 9th respondent and TN-74-U-8808 other vehicles if they found to be involved.

23. With the above direction, writ petitions in WP (MD) No. 9293 of 2016 and 7524 of 2016 are allowed and the petitioner in Writ Petition (MD) No. 19752 of 2015 is dismissed. Consequently, the respondents 1 to 8 are directed to follow provisions contained in Tamil Nadu Motor Vehicle Act for the violations found in future and ensure that there shall not any operation of contract carriages like maxi cab, putting individual fares on the passengers as that of stage carriage. In view of the order passed in the Writ Petition, the contempt petition No. 1272 of 2016 is closed. No costs. Consequently, connected Miscellaneous Petition is closed."

3. The controversial issue lies in a very narrow compass. The petitioner does have a licence to run a maxicab and also have a canvas licence to sell tickets. However, it is only that the vehicle must be used as a contract carriage and thus there is a distinction between the stage and contract carriages. The contract carriage is between the starting point of the place and destination and there is no stoppage in between it. The price has to be uniform. This is for the reason, the booking has to be done at the place of destination. If a contract carriage is permitted to stop at different place, and thereafter drop the passengers and pick them up, it is a part character of Stage carriage.

4. The learned counsel for the appellant would submit that what the appellant does is only the activity of contract carriage, however under the guise of implementation of the order passed in the Writ Petition, even, that is being stopped. He would further add that there is no difficulty in accepting the contention respect of the activities as an agent booking the passenger at office of the appellant, issuing tickets to the place of destination and dropping them.

<https://hcservices.ecourts.gov.in/> The issue before the learned Single Judge was that the appellant under the guise of possessing a licence meant to be used for a contract carriage is using it for stage carriage. It is

contrary to the circular issued by the Transport Commissioner, Chepauk, Chennai, to the Regional Transport Authority, Nagercoil, Kanyakumari, dated 30.09.2015.

6. Accordingly, the Writ Appeal stands disposed of by making it clear that so long as the appellant does his business as per the rules and the licence issued, the same cannot be prevented by the official respondents. However if the appellant violates it by using the vehicle as a stage carriage, it is well open to the authorities to take action against the appellant as per law. It is also made clear that insofar as package booking is concerned, it has to be done from the starting point to the place of destination alone and not in between it. No costs.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Transport Department,
State of Tamil Nadu,
Secretariat, Chennai.
2. The Transport Commissioner,
Transport Department,
Ezhilagam, Chepauk,
Chennai.
3. The Deputy Commissioner,
Transport Department,
NGO Colony,
Palayamkottai,
Tirunelveli District.
4. The Regional Transport Authority / District Collector,
Nagercoil,
Kanyakumari District.
5. The Superintendant of Police,
Nagercoil,
Kanyakumari District.
6. The Regional Transport Officer,
Regional Transport Office,
Nagercoil,
Kanyakumari District.



7. The Executive Officer,
Kanyakumari Special Grade Town Panchayat,
Kanyakumari,
Kanyakumari District.

8. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate, SR No. 67347.

+1 CC to M/s.S.BALAMURUGAN, Advocate, SR No. 67443.

TA/CMR

PSM/JC/SAR1/28.08.2017/5P/11C

ORDER MADE IN
W.A. (MD) No.978 of 2017
and
C.M.P. (MD) No.6644 of 2017
24.07.2017