

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.28124 of 2018
and
W.M.P.No.32776 of 2018

K.Suganthi

... Petitioner

Vs

1. The Regional Transport Officer,
Attur, Salem District.

2. Smt. Sudha

3. Ms. Sundari

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, seeking for an issuance of Writ of Mandamus, directing the first respondent to take back the petitioner's application for renewal of fitness certificate in respect of the petitioner's vehicle bearing Registration NO.TN-77/H-2711 plying on the route Attur to Unathur dated 16.10.2018 and pass orders renewing the fitness certificate beyond 25.10.2018.

For Petitioner : Mr.S.Radha Gopalan

For Respondents : Mr.A.N.Thambidurai,
Spl. G.P.,
for R1

O R D E R

This writ petition has been filed seeking direction to the first respondent to renew the fitness certificate in respect of the petitioner's vehicle bearing Registration NO.TN-77/H-2711.

2. According to the petitioner, a stage carriage permit was originally stood in the name of the mother of the petitioner, namey, Smt.Sundarambal. After her death, the permit was transferred in the name of the petitioner's father, Mr.Kumaraswami and he was running the vehicle for the past 20 years and he died on 26.08.2018 leaving behind the petitioner

and her sister one K.Suguna and brother K.Sivasubramanian, as his legal heirs. Even during the life time of her father, the second and third respondents herein claiming to be the daughters of the K.Sivasubramanian, filed a suit for partition in O.S.No.40 of 2013 and the same is pending. After the death of the petitioner's father, the vehicle is in possession of the petitioner and the petitioner is running the same and she alone is paying the tax and insurance, etc. In the meantime, the date of fitness certificate of the vehicle is going to expire on 25.10.2018. Hence, she made an application for renewal of fitness certificate after paying necessary fees. However, the application has been returned with a memo dated 28.08.2018, on the ground that the second respondent herein has raised objection for transferring the permit. Hence, the present writ petition has been filed.

3. Mrs.Radha Gopalan, learned counsel appearing for the petitioner submitted that it is only an application for fitness certificate, without the fitness certificate, the vehicle cannot be run and in respect of the other dispute regarding the ownership and the transfer of permit, has nothing to do with the renewal of fitness certificate and by renewing the fitness certificate, no prejudice will be caused to the other contesting respondents.

4. Mr.A.N.Thambidurai, learned Special Government Pleader, appearing for the first respondent, on instructions, submitted that since the objection has been raised by the other legal heirs, the first respondent is not in a position to renew the fitness certificate.

5. In view of the nature of the order that is going to be passed in the writ petition, which no way would prejudice the interest of the second and third respondents, notice to them is dispensed with.

6. Considering the fact that the petitioner has only sought for renewal of fitness certificate, which is a mandatory requirement under Motor Vehicles Act and which is going to expire on 25.10.2018, without which the vehicle cannot be operated. In the said circumstances, without prejudice to the rights and claim made by the respondents 2 and 3 and other contesting claimants regarding the stage carriage permit, the first respondent is directed to renew the fitness certificate, if the petitioner satisfies the other conditions for renewing the fitness certificate.

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

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

mrp

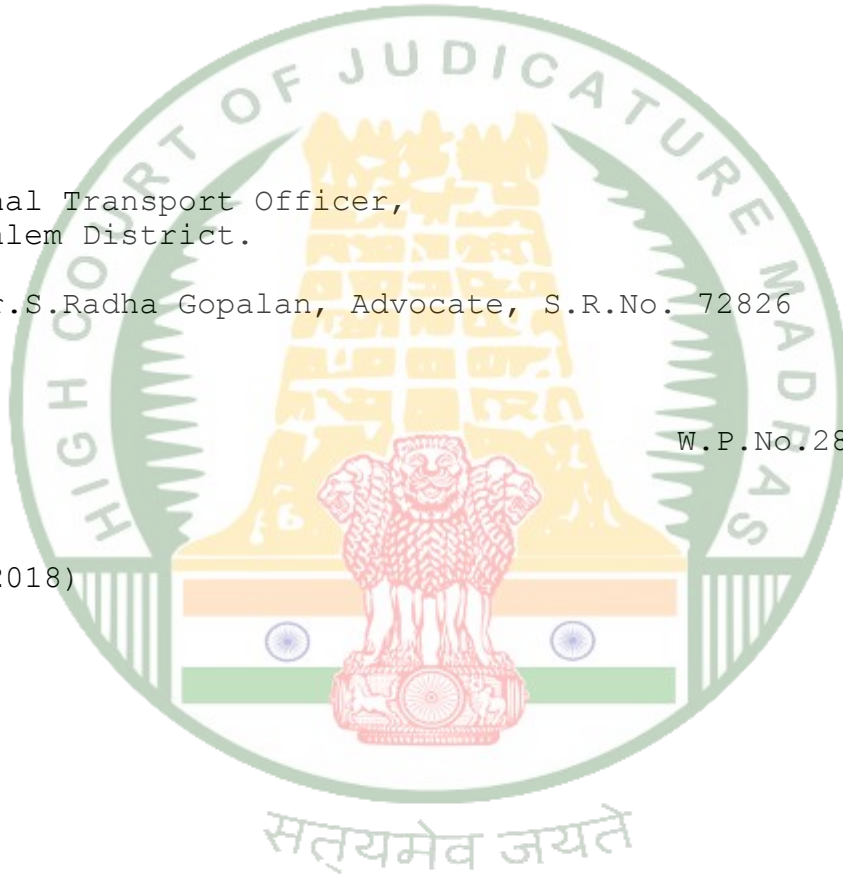
To

The Regional Transport Officer,
Attur, Salem District.

+1cc to Mr.S.Radha Gopalan, Advocate, S.R.No. 72826

W.P.No.28124 of 2018

GN(26/10/2018)



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