

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 03.04.2019

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**W.P. (MD) .No.7446 of 2019****and****W.M.P (MD) no.5957 of 2019**

S.Anand

... Petitioner

-vs-

1. The Regional Transport Officer
O/o.Regional Transport Office
Pudukottai, Pudukottai District.

2. The Assistant Registering Authority
O/o.Regional Transport Office
Pudukottai, Pudukottai District

3. The Regional Transport Officer
O/o.Regional Transport Office
Sivagangai, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the third respondent to delete the entry of "objection by court" in the official website of the third respondent in respect of petitioner's vehicle bearing Registration No. TN 63 J 4446 and consequently direct the respondents 1 and 2 to issue fitness certificate and permit by collecting road tax for his vehicle bearing Registration No. TN 63 J 4446.

For Petitioner : Mr.B.Prasanna Vinoth

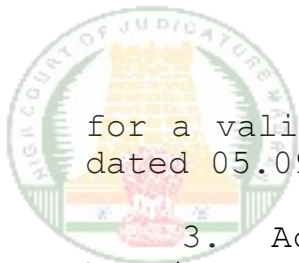
For Respondents : Mr. N.Shanmuga Selvam

Additional Government Pleader

O R D E R

The instant writ petition has been filed seeking for the issuance of writ of mandamus directing the third respondent to delete the entry of "objection by court" in the official website of the third respondent in respect of petitioner's vehicle and consequently direct the respondents 1 and 2 to issue fitness certificate by collecting road tax for his vehicle bearing Registration No. TN 63 J 4446.

2. It is the case of the petitioner that he has been operating stage carriage permit in the name and style of Rajamanickam Bus Service from Pudukottai to Pattukottai for the past several years. According to the petitioner, he has purchased a new spare bus and hence he sold the spare bus available to him. According to him, on enquiry, he found that the spare bus bearing registration no. TN 63 J 4446 is for sale and he purchased the same from one Vijay Balaji



for a valid consideration of Rs.5,50,000/- through payment receipt dated 05.09.2016.

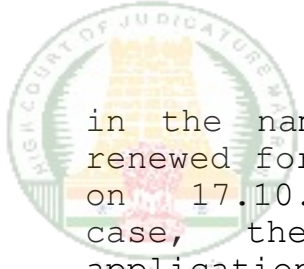
3. According to the petitioner, after purchasing the said bus bearing Registration No.TN 63 J 4446, the second respondent transferred the registration certificate in the petitioner's name and fitness certificate was also issued on 17.10.2017 valid for the period from 17.10.2017 to 18.10.2018. The insurance policy was also renewed in petitioner's name and the same was in operation till 18.10.2018.

4. According to the petitioner, the fitness certificate issued by the second respondent expired on 18.10.2018 and hence he approached the second respondent for getting the fitness certificate renewed. However, according to him, the second respondent refused to renew the fitness certificate and receive the prescribed fee for renewal. Thereafter, it came to the knowledge of the petitioner that the third respondent has made an endorsement in the official website that there is "Court Objection" and that is the reason for the second respondent refusing to renew the fitness certificate. According to the petitioner on enquiry, it was found that there was a property dispute between the family of petitioner's vendor's vendor namely S.Sekar for which a suit was filed, in which, the said vehicle was also shown in the schedule of property in O.S.No.227 of 2010 on the file of the District Munsif Court, Melur and the same was transferred to the file of the Additional District Judge, Madurai and re-numbered as O.S.No.218 of 2010. According to the petitioner the suit was dismissed by the Court on 09.10.2018 and the same was challenged by the unsuccessful plaintiff before this Court and the said appeal in A.S.(MD) No.198 of 2018 is pending on the file of this Court.

5. It is also the case of the petitioner that dispute involving the vehicle will not entitle the respondent to refuse renewal of the fitness certificate for the vehicle bearing registration number TN 63 J 4446 which expired on 18.10.2018. According to him, the suit was filed in the year 2010 and the petitioner was allowed to operate the vehicle all these years without any hindrance. According to the petitioner, fitness certificate was also renewed on 17.10.2017 which was valid upto 18.10.2018. According to the petitioner, refusal of the respondent in accepting the application for renewal of fitness certificate is not in accordance with law. Under this circumstances, the instant writ petition has been filed.

6. Heard Mr.B.Prasanna Vinoth, learned counsel appearing for the petitioner and Mr.N.Shanmuga Selvam, learned Additional Government Pleader appearing for the respondents.

7. It is an admitted fact that the suit in O.S.No.227 of 2010 pertains to family dispute between the family members of petitioner's vendor's vendor namely S.Sekar. Even though the suit was filed in the year 2010, subsequently permit was also transferred



in the name of the petitioner and fitness certificate was also renewed for the vehicle periodically and the last renewal was made on 17.10.2017, which was valid upto 18.10.2018. This being the case, the respondents ought not to have refused the renewal of application submitted by the petitioner seeking renewal of the fitness certificate for a further period. But as seen from the affidavit filed in support of the petition, the date of application submitted by the petitioner for renewal of the fitness certificate has not been mentioned. Further as seen from the endorsement made by the third respondent, there is no order passed by the Court restraining the second respondent from renewing fitness certificate for a further period in favour of the petitioner. This being the case, the endorsement made by the third respondent that there is court objection cannot be a ground for the second respondent to refuse the petitioner's request for renewal of the fitness certificate.

8. However, it is for the second respondent to pass final orders under Section 56 of the Motor Vehicles Act 1988, regarding renewal of fitness certificate for the transport vehicle. Since the respondents had refused to receive the application earlier, this Court directs the petitioner to submit a fresh application with the second respondent along with necessary papers with prescribed fee for renewal, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent shall pass final order on the renewal application which shall be a speaking order within a period of two weeks thereafter.

9. With the aforesaid direction, the writ petition is disposed of. No Costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar (CS)

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3. The Regional Transport Officer
O/o.Regional Transport Office, Sivagangai, Sivagangai District.

1CC TO MR. A.N. RAMANATHAN, ADVOCATE SR 58784

<https://hcservices.ecourts.gov.in/hcservices/>
1CC TO THE SPL GOVT PLEADER SR 58849

DS - 15/04/2019 - 3P 6C

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