



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WEB COPY

W.P.(MD)Nos.18623 and 13322 of 2019

in

W.M.P. (MD) .No.14988 and 14989 of 2019

in

W.P. (MD) .No.18623 of 2019

M.Rengaraj

... Petitioner in both W.Ps

Vs.

1.The Regional Transport Authority,
Office of the Regional Transport Authority
Tirunelveli District.

2.Smt.Sivagami ... Respondents in W.P. (MD) .No.18623/2019

1.The Regional Transport Authority,
Office of the Regional Transport Authority
Tirunelveli District.

2.The Regional Transport Officer,
Tenkasi,
Tirunelveli District.

3.Sivagami

4.Arumugam

5.Indira

6.Sankarakanthan

7.Muthukrishnan ... Respondents in W.P. (MD) .No.13322/2019

PRAYER in W.P. (MD) .No.18623/19: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in Pro.R.No.1707/A3/2019 dated 05.08.2019 rejecting the application of the Petitioner dated 03.04.2019 for transfer of permit from the name of the deceased permit holder Tmt.A.Rama Subbu Ammal in the name of the Petitioner and to quash the same and further direct the 1st respondent to transfer the permit in respect of vehicle bearing Regn.No.TN-57/H-8066 plying on the route "Keelapuliyur to Tirumalaikovil" from the name of the deceased permit holder Tmt.Rama Subbu Ammal in the name of the petitioner as prayed for in the application of the Petitioner dated 03.04.2019.

PRAYER in W.P. (MD) .No.13322/19: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus



directing the 1st respondent to transfer the Stage Carriage in respect of the vehicle bearing Registration No.TN 57 H 8066 and its permit plying on the route Keelapuliyur to Thirumalaikovil without insisting No Objection Certificate from the 3rd respondent based on the petitioner's Transfer Application dated 03.04.2019.

In both W.Ps:

In W.P. (MD) .No.18623/2019
For Petitioner : Mr.A.C.Asaitambi
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader
for R-1
Mr.M.P.Senthil for R-2

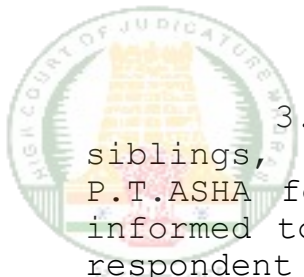
In W.P. (MD) .No.13322/2019
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader
for R-1 & R-2
Mr.M.P.Senthil for R-3
Mr.D.Senthil for RR-4 to 7

COMMON ORDER

W.P.(MD).No.18623/2019 has been filed challenging the order of the 1st respondent, dated 05.08.2019 rejecting the application of the petitioner dated 03.04.2019 for transfer of permit from the name of the deceased permit holder Tmt.A.Rama Subbu Ammal in the name of the Petitioner and to quash the same and further direct the 1st respondent to transfer the permit in respect of vehicle bearing Regn.No.TN-57/H-8066 plying on the route "Keelapuliyur to Tirumalaikovil" from the name of the deceased permit holder in the name of the petitioner.

W.P.(MD).No.13322/2019 has been filed for issuance of Writ of Mandamus directing the 1st respondent to transfer the Stage Carriage permit in respect of the vehicle bearing Registration No.TN 57 H 8066, plying on the route Keelapuliyur to Thirumalaikovil without insisting No Objection Certificate from the 3rd respondent, based on the petitioner's Transfer Application dated 03.04.2019.

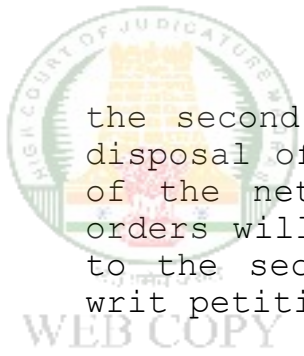
2.According to the petitioner, his mother Tmt.Ramasubbammal was holding a Stage Carriage Permit on the route from Keelapuliyur to Thirumalaikovil in respect of the vehicle bearing Regn.No.TN-57/H-8066 and the said permit is valid upto 22.03.2020. Whiles, the permit holder died on 11.05.2018 leaving behind the petitioner, second respondent, other three children as her legal heirs. Except the second respondent, all other legal heirs have agreed for transfer of permit in favour of the petitioner, who succeeds the possession of the vehicle. Hence, the application for transfer of permit was rejected by the first respondent, on 05.08.2019. Challenging the same, the petitioner is before this Court.



3.This Court, after considering the dispute between the siblings, directed them to appear before the Hon'ble Ms.JUSTICE P.T.ASHA for mediation. However, there is no settlement. It is informed to the Court that a civil dispute was filed by the second respondent in O.S.No.237/2019 on the file of the Additional District Judge, Tenkasi and the same is pending. As of today, the permit stands in the name of the dead person and it should not be allowed to lapse for a misunderstanding between the siblings. In a similar circumstances, this Court in W.P.No.9633/1984, has passed the following order:-

"The resulting position is that the permits all stand in the name of dead persons. If such a situation is allowed to continue, then, it is very likely that by the time the disputes between the parties are either settled or adjudicated upon, the buses, if by plying on the routes, or even the permits with reference to the several routes may become useless, especially when, even according to the petitioner, the buses are off the road and nobody is operating the routes in question and that may lead to the cancellations of the permits for non-performance. Such a situation cannot therefore be allowed to be brought about on account of the disputes between the parties since the transport service is basically intended for the convenience of the travelling public and many important routes as detailed in the "C" schedule to the plaint cannot be allowed to be cancelled for non-performance resulting in enormous difficulties for the members of the public, who are obliged to travel on those routes. Bearing in mind the need to preserve the permits and prevent their cancellation for non-preference and also taking into account the convenience of the travelling public, it appears to be very just and equitable that for the time being at least there should be a transfer of all the permits in favour of respondents 3 to 6 as prayed for by them. The learned counsel for respondents 3 to 6 has repeatedly asked whether if such a transfer of the permits is effected in their favour, they would hold those permits so transferred, not only for their own benefit, but also for the benefit of others, who either earlier or hereafter might have been or may be declared to have an interest or share therein, the learned counsel assured this Court that respondents 3 to 6 would so hold the permits when transferred."

4.As per the above order, considering the public interest and convenience of the travelling public, the petitioner is appointed as receiver and directed to deposit the share belonging to



the second respondent in the suit account. Accordingly, till the disposal of the civil suit, the petitioner shall deposit 1/6th share of the net profits to the credit of O.S.No.237/2019 and further orders will be subject to the result of the suit. It is always open to the second respondent to verify the accounts submitted by the writ petitioner.

5.In view of the above observation, the impugned order passed by the first respondent in Pro.R.No.1707/A3/2019 dated 05.08.2019 is set aside and further orders can be passed, as per the decree of the Civil Court. The respondents are further directed to consider the transfer of permit in favour of the writ petitioner, within a period of two weeks from the date of receipt of a copy of this order.

6.Accordingly, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Regional Transport Authority,
Office of the Regional Transport Authority
Tirunelveli District.

2.The Regional Transport Officer,
Tenkasi,
Tirunelveli District.

+1 CC to M/s.AC. ASAITHAMBI, Advocate (SR-100163[F] dated 21/11/2019)

+ 1 cc TO M/s.M.P.SENTHIL, Advocate, SR.No.100481

W.P(MD)Nos.18623 and 13322 of 2019

21.11.2019

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