



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2020

CORAM

**THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD)No.6180 of 2016 and

WMP (MD)No.5454 of 2016

WEB COPY

E.Raja

... Petitioner

Vs

1. The Regional Transport Officer,  
Regional Transport Office,  
Thiruchendur,  
Thoothukudi District.
2. The Regional Transport Officer,  
Regional Transport Office,  
Erode, Erode District.
3. The Assistant Registering Authority, (RTO),  
Gobichettipalayam,  
Erode District.
4. S.Kumarguru,  
S/o Shanmugavel,  
Akkampalayam,  
Kanakampalayam Post,  
Gobichettipalayam,  
Erode District.

... Respondents

**PRAYER:** Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records vide proceedings in R.No.553/B3/16 dated 07.01.2016 passed by the 3<sup>rd</sup> respondent and quash the same.

|                 |                                           |
|-----------------|-------------------------------------------|
| For Petitioner  | : Mr.S.R.A.Ramachandran                   |
| For Respondents | : Mr.M.Rajarajan,<br>Government Advocate. |

### **O R D E R**

Heard the learned counsel for the Writ Petitioner and the learned Government Advocate for the respondents.

2. The petitioner categorically states that the Mahindra Scorpio Car bearing Registration No. TN 69 AW 6381 is very much in his custody even now. It appears that the petitioner had availed loan from one Rajendran, who is a financier. The said financier had also taken the signatures of the Writ Petitioner in various forms. The petitioner states that he has cleared all the liabilities. But



the said financier had passed on the papers to the fourth respondent who approached the third respondent and got the registration transferred in his name in respect of the said vehicle. The impugned order by which the third respondent effected the transfer of registration is put to challenge in this Writ Petition.

WEB COPY

3. The learned counsel appearing for the Writ Petitioner draws my attention to Rule 55 of Motor Vehicles Act 1989. The said Rule is as under:-

**55.Cancellation of registration**

- (1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward to that authority the certificate of registration of the vehicle.
- (2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration.
- (3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the State Government may by order appoint, and, if, upon such examination and after giving the owner an opportunity to make any representation he may wish to make (by sending to the owner a notice by registered post acknowledgeemnt due at his address entered in the certificate or registration), it is satisfied that the vehicle is in such a condition that it is incapable of being used or its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration.
- (4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of India, the registering authority shall cancel the registration.
- (5) If a registering authority is satisfied that the registration of a Motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of





WEB COPY

transfer under sub-section (1) of section 50, shall make an application in such form and in such manner as may be prescribed by the Central Government to the registering authority by which the vehicle was registered for the issue of a certificate (hereafter in this section referred to as the no objection certificate), to the effect that the registering authority has no objection for assigning a new registration mark to the vehicle or, as the case may be, for entering the particulars of the transfer of ownership in the certificate of registration.

(2) The registering authority shall, on receipt of an application under sub-section (1), issue a receipt in such form as may be prescribed by the Central Government.

(3) On receipt of an application under sub-section (1), the registering authority may, after making such inquiry and requiring the applicant to comply with such directions as it deems fit and within thirty days of the receipt thereof, by order in writing, communicate to the applicant that it has granted or refused to grant the no objection certificate:

Provided that a registering authority shall not refuse the no objection certificate unless it has recorded in writing the reasons for doing so and a copy of the same has been communicated to the applicant.

(4) Where within a period of thirty days referred to in sub-section (3), the registering authority does not refuse to grant the no objection certificate or does not communicate the refusal to the applicant, the registering authority shall be deemed to have granted the no objection certificate.

(5) Before granting or refusing to grant the no objection certificate, the registering authority shall obtain a report in writing from the police that no case relating to the theft of the motor vehicle concerned has been reported or is pending, verify whether all the amounts due to Government including road tax in respect of that motor vehicle have been paid and take into account such other factors as may be prescribed by the Central Government.

(6) The owner of the vehicle shall also inform at the earliest, in writing, the registering authority about the theft of his vehicle together with the name of the police station where the theft report



was lodged, and the registering authority shall take into account such report while disposing of any application for no objection certificate, registration, transfer of ownership or issue of duplicate certificate.''

WEB COPY

5. Therefore, this contention urged by the learned counsel for the petitioner cannot be accepted. I make it clear that I had only declined to interfere with the transfer of registration made by the third respondent. The rights of the petitioner otherwise available to him are left open.

6. With such liberty, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

**Note:**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

**To**

1. The Regional Transport Officer,  
Regional Transport Office,  
Thiruchendur, Thoothukudi District.
2. The Regional Transport Officer,  
Regional Transport Office,  
Erode, Erode District.
3. The Assistant Registering Authority, (RTO),  
Gobichettipalayam,  
Erode District.

**W.P. (MD) No. 6180 of 2016 and**

**WMP (MD) No. 5454 of 2016**

**30.07.2020**