

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.Nos.359 and 360 of 2021 and
C.M.P.Nos.3069 and 3070 of 2021

V.Selvi ... Petitioner in C.R.P.No.359 of 2021
A.Venkatesan ... Petitioner in C.R.P.No.360 of 2021

Vs.

1. The Regional Transport Authority,
Virudhunagar.

2. M.Parameswaran

4. D.M.Maheswaran ... Respondents 1, 2 and 4 in
C.R.P.Nos.359 & 360 of 2021

3. K.Devi ...3rd respondent in C.R.P.No.359 of 2021

3. V.Kumaravel ...3rd respondent in C.R.P.No.360 of 2021

Civil Revision Petitions are filed under Article 227 of Constitution of India against the order dated 08.12.2020 made in M.V.Nos.22 and 23 of 2016 on the file of State Transport Appellate Tribunal, Chennai reversing the order dated 06.02.2016 made in proceedings in R.No.31111/A5/2015 and R.No.31112/A5/2015 respectively passed by the Regional Transport Authority, Virudhunagar.

For Petitioners : Mr.S.Mukunth

For Respondents : Mr.S.Jaganathan
Government Advocate for R1
Mr.Radhagopalan
Senior Counsel for
Mr.Padmanaban for R2

C O M M O N O R D E R

Since the issues involved in both the Revision Petitions are one and the same, they are taken up together and a common order is being passed.

2. The present Civil Revision Petitions have been filed under Article 227 of Consitution of India against the order dated 08.12.2020 made in M.V.Nos.22 and 23 of 2016 on the file of State Transport Appellate Tribunal, Chennai reversing the order dated 06.02.2016 made in proceedings in R.No.31111/A5/2015 and R.No.31112/A5/2015 respectively passed by the Regional Transport Authority, Virudhunagar.

3. For the sake of convenience, the ranks of the parties are mentioned as per their ranks in the suit.

4. The plaintiff, who is the 2nd respondent has filed a suit in O.S.no.12 of 2006 as against the legal heirs of the 1st defendant, who had died. According to the plaintiff, he is the son of 1st defendant and the 1st defendant married the 6th defendant in the year 1954. The 1st defendant, his borther, Santhana thevar and Ganesan sold some of their ancestral properties and started Velmurugan Tyres Rebutton - Retrading Company works [hereinafter referred to as family business]. The 1st defendant and his two brothers partitioned their Hindu undivided family movable properties by a deed daed 01.04.1973. In the said deed, the 1st defendant was allotted B schedule properties, in consequence, the 1st defendant and his brother Santhana thevar and Ganesan with their mother Kaluvayee ammal entered into another partition deed for the same joint family business and the 1st defendant was allotted B schedule properties and they are described as 2nd schedule properties in the suit. Thereafter, the 1st defendant had developed illegal intimacy with one Jeya, who was arrayed as 7th defendant and defendants 2, 3 and 4 are their children. However, the plaintiff was in good relationship with his father, 1st defendant. The 1st defendant, who was in the clutches of the said Jeya and her children were acting against the interest of the Hindu Undivided family and started transferring and effecting encumbrance of schedule properties. The plaintiff, being the only legitimate son born out of the wed lock between the defendants 1 and 6, has filed a suit for partition of his half share.

5. In contrary, written statement was filed by the defendants 1, 2 and 5. The 1st defendant had stated that he married 6th defendant in the year 1958 and divorced her on 27.09.1961 before Panchayathdars, as per the caste custom prevailing in Kallar Community. From the year 1961, there is no relationship between the 1st and 6th defendant and the 6th defendant was settled fully and finally, and she also married a person, who was running rice business at Thirupparankundram. The allegation that Jeya is in illegitimate relationship with the 1st defendant is false and she is legally wedded wife of the 1st defendant. Already, the plaintiff had received his share, as per the family arrangements and that he has no right

to demand 50% share in the suit property and the same belongs to the defendants 1 to 4.

6. The 5th defendant, who is a bank has filed a separate written statement stating that the property belongs to Jeya w/o Mayandi and she is the absolute owner of the property. The said property was originally purchased by Jeya from A.M.M.Arunachalam and his son M.A.Murugappan, represented by his father, which was a joint family property on 19.09.1979. The bank has been occupying the said premises since 1990 by paying a rent of Rs.11,760/- till 15.04.2003. Lease deed was executed for a period from march 1990 to March 2000 and now it has been renewed for a further period of 10 years commencing from 09.03.2000 to 08.03.2010 and the rent after renewal is fixed as Rs.24,000/- per month from 16.04.2003 till 08.03.2005 and with 25% increase in rent from 09.03.2005 to 08.03.2010, ie., Rs.30,000/- per month. Therefore, there is no cause of action against the said bank and that the bank is entitled to hold property towards security for loan, is the averment of the 5th defendant.

7. The court below upon considering the pleadings, averments and the documents placed on record had passed a preliminary decree in favour of the plaintiff and stated that the plaintiff is entitled to 5/8 share in the suit properties.

8. Further, the 1st respondent, viz., Regional Transport Authority, Virudhunagar, upon hearing the parties on several dates and on perusing the judgments relied on by the parties and the arguments put forth on either side, by proceedings dated 06.02.2016 in R.Nos.31111/A5/2015 had allowed the transfer of permit in respect of Stage Carriage TN 64/2293 plying on the route (i) Madurai to Kovilpatti (via) Thirumangalam, Virudhunagar and Sattur (ii) Madurai to Elayiramannai (via) Thirumangalam, Virudhunagar and Sattur and (iii) Madurai to Virudhunagar touching Melakottai from the name of Tmt. Devi to Tmt. V.Selvi; and through Proceedings No.31112/A5/2015 dated 06.02.2016 had allowed the transfer of permit in respect of Stage Carriage TN 47/U0333 plying on the route Elayiramannai to Madurai from the name of V.Kumaravel to A.Venkatesan and the relevant paragraphs are extracted hereunder:-

"In view of the above said observations, I, the Regional Transport Authority, Virudhunagar district in exercise of powers conferred on me as per Section 82(1) of the Motor Vehicles Act, 1988, do hereby allowed the transfer of bus permit TN 64/2293 plying on the route Madurai to Kovilpatti (via) Thirumangalam, Virudhunagar Sattur and from Madurai to Virudhunagar touching Melakottai with endorsement of permit for the portions plying in Madurai and Tuticorin districts from the name

of K.Devi of Namakkal to V.Selvi of Tiruchengode along with the spare bus permit bearing Registration No.TN04K7887.

The transferee is liable to produce the registration Certificates of the vehicles duly transferred in her name along with permit with valid tax, fitness certificate, insurance certificate etc., within 4 months from the date of receipt of this order failing which sanction hereby accorded will be revoked under rule 213(1) of Tamilnadu Motor Vehicles Rules 1989 without further notice."

"In view of the above said observations, I, the Regional Transport Authority, Virudhunagar district in exercise of powers conferred on me as per Section 82(1) of the Motor Vehicles Act, 1988, do hereby allowed the transfer of bus permit TN 47U/0333 plying on the route "Elayirampanni to Madurai (via) Sattur, Virudhunagar, Thirumangalam with independent Shuttle Trips between Kovilatti to Madurai (via) Sattur, Virudhunagar, Thirumangalam with endorsement of permit for the portions plying in Madurai disitric from the name of Thiru.V.Kumaravel of Namakkal to Thiru.A.Venkatesan of Tiruchengode.

The transferee is liable to produce the Registration Certificate of the vehicle duly transferred in his name along with the permit with valid tax, fitness certificate, insurance certificate etc., within 4 months from the date of receipt of this order failing which sanction hereby accorded will be revoked under Rule 213(1) of Tamilnadu Motor Vehicle Rules 1989 without further notice."

9. As against the said orders, the 2nd respondent / plaintiff has preferred appeals before the State Transport Appellate Tribunal by way of M.V.Appeal No.22 of 2016 and M.V.Appeal No.23 of 2016. The said authority by order dated 08.12.2020 respectively had set aside the said proceedings. Challenging the same, the said V.Selvi and A.Venkatesan/ petitioners are before this Court, by way of these Revision Petitions.

10. Heard the learned counsel for the petitioners in detail and perused the documents placed on record.

11. At this juncture, the learned counsel for the petitioners as well as counsel for the 2nd respondent have filed a Joint memo and the present Revision petitions may be

disposed of on the terms prescribed in the Joint Memo dated 11.03.2021, he pleaded.

12. The Joint Memo of Compromise dated 11.03.2021 in C.R.P.No.359 of 2021 is recorded and the conditions are as follows:-

" 1. The 4th respondent herein originally owned the bus permit for the route Madurai to Kovilpatti. He sold the same to the 3rd respondent on 20.02.2013.

2. The 4th respondent is the step brother of the 2nd respondent (Mr.Parameswaran). The said 2nd respondent filed a suit for partition in O.S.no.12 of 2006 on the file of IV Additional District, Madurai. One of the suit property is bus bearing No.TN 59J 2588 and the same is mentioned as Item No.4 in 'B' schedule property. The suit was decreed on 10.01.2013 granting 5/8th shares to the 2nd respondent. Aggrieved by the decree, the 4th respondent (Maheswaran) preferred A.S.No.145 of 2017 on the file of Madurai Bench of the Madras High Court. The Appellate Court granted stay of passing of final decree alone and the appeal is pending disposal.

3. That being so, the 3rd respondent purchased the permit along with the vehicle from the 4th respondent and the 3rd respondent subsequently filed the Transfer application for transfer of permit on the route "Madurai to Kovilpatti" in favour of the petitioner in the Civil Revision petition. Coming to know of the same the 2nd respondent filed an objection for rejection of the said transfer of permit on the ground that there is a decree in his favour. The Regional Transport Authority granted the transfer of permit from the name of the 3rd respondent in the name of the petitioner. Aggrieved against the same, the 2nd respondent filed appeal no.22/2016 before the State Transport Appellate Tribunal, Chennai and the same was allowed on 08.12.2020. Challenging the order of the Tribunal, the petitioner has filed the above said Civil Revision Petition.

4. When the matter came up for admission, the Counsel for the 2nd respondent took notice and submitted that he may not have any objection for the petitioner to run the vehicle on the route provided that the petitioner gives an undertaking that she will not alienate or transfer the permit till the disposal of the first appeal, i.e., A.S.No.145/2019 on the file of the Madurai Bench of the Madras High Court. The petitioner also agreed to the same.

5. Since both the petitioner and the 2nd respondent have agreed as stated above, it is prayed that this Court may be pleased to dispose of the above said Civil Revision Petition by recording the above terms agreed to by petitioner and 2nd respondent and thus render justice."

13. Also, the Joint Memo of Compromise dated 11.03.2021 in C.R.P.No.360 of 2021 is recorded and the conditions are as follows:-

" 1. The 4th respondent herein originally owned the bus permit for the route Elayirampanni to Madurai. He sold the same to 3rd respondent on 09.05.2012.

2. The 4th respondent is the step brother of the 2nd respondent (Mr.Parameswaran). The said 2nd respondent filed a suit for partition in O.S.no.12 of 2006 on the file of IV Additional District, Madurai. One of the suit property is bus bearing No.TN 58J 9511 and the same is mentioned as Item No.9 in 'B' schedule property. The suit was decreed on 10.01.2013 granting 5/8th shares to the 2nd respondent. Aggrieved by the decree, the 4th respondent (Maheswaran) preferred A.S.No.145 of 2017 on the file of Madurai Bench of the Madras High Court. The Appellate Court granted stay of passing of final decree alone and the appeal is pending disposal.

3. That being so, the 3rd respondent purchased the permit along with the vehicle from the 4th respondent and the 3rd respondent subsequently filed the Transfer application for transfer of permit on the route "Elayirampanni to Madurai" in favour of the petitioner in the Civil Revision petition. Coming to know of the same the 2nd respondent filed an objection for rejection of the said transfer of permit on the ground that there is a decree in his favour. The Regional Transport Authority granted the transfer of permit from the name of the 3rd respondent in the name of the petitioner. Aggrieved against the same, the 2nd respondent filed appeal no.23/2016 before the State Transport Appellate Tribunal, Chennai and the same was allowed on 08.12.2020. Challenging the order of the Tribunal, the petitioner has filed the above said Civil Revision Petition.

4. When the matter came up for admission, the Counsel for the 2nd respondent took notice and submitted that he may not have any objection for the petitioner to run the vehicle on the route provided that the petitioner gives an undertaking that she will not alienate or transfer the permit till the disposal

of the first appeal, i.e., A.S.No.145/2019 on the file of the Madurai Bench of the Madras High Court. The petitioner also agreed to the same.

5. Since both the petitioner and the 2nd respondent have agreed as stated above, it is prayed that this Court may be pleased to dispose of the above said Civil Revision Petition by recording the above terms agreed to by petitioner and 2nd respondent and thus render justice."

14. The present Civil Revision Petitions are disposed of in terms of Joint Memo and the same shall form part and parcel of the record of the Civil Revision Petitions, namely, C.R.P.Nos.359 and 360 of 2021. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The State Transport Appellate Tribunal,
Chennai

2. The Regional Transport Authority,
Virudhunagar.

Copy : The Section Officer,
V.R.Section, High Court, Madras

+2cc to M/s.Sarvabhauman Associates, SR.NOS.11177 and 11178

+1cc to The Government Pleader SR.NOS.12512 and 11684

AKM/15.04.21/7P- 7C/

सत्यमेव जयते

C.R.P.Nos.359 and 360 of 2021 and

C.M.P.Nos.3069 and 3070 of 2021

WEB COPY