

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.No. 6692, 1868 of 2021 & 18225 of 2020
and
W.M.P.Nos. 7245, 7246 & 2111 of 2021

W.P.No. 6692 of 2021

M.Meenakshi

...Petitioner

Vs.

1.The Regional Transport Authority,
Tiruvannamalai.

2.The Regional Transport Officer,
Tiruvannamalai.

3.G.Suriyakala

4.D.V.Sudarsan

...Respondents

Prayer in W.P.No. 6692 of 2021: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the records of the 2nd respondent in Memo No.37430/A1/2020 dated 23.02.2021 and to quash the same and further direct the 1st respondent to forthwith consider and grant the transfer of permit pursuant to the joint application submitted by the petitioner and the 3rd respondent on 17.09.2020 in respect of Vehicle bearing Registration No.TN-23/CP-5535 plying on the route "Tiruvannamalai to Manikkal".

For Petitioner : Mrs.S.Radha Gopalan

For Respondents : Mr.M.Elumalai, AGP

for R1 & R2

Mr.P.Kannan Kumar for R3

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W.P.No. 1868 of 2021

G.Suriyakala

...Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Tiruvannamalai.

..Respondent

Prayer in W.P.No. 1868 of 2021: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the records on the file of the respondent in R.No. 37430/A1/2020, dated 18.12.2020 and quash the same and consequently direct the respondent to effect transfer of permit based on the petitioner's representation dated 28.09.2020.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.M.Elumalai, AGP

W.P.No. 18225 of 2021

G.Suriyakala

...Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Tiruvannamalai.

..Respondent

Prayer in W.P.No. 18225 of 2020: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the respondent to effect transfer of permit based on the petitioner's representation dated 28.09.2020.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.M.Elumalai, AGP

C O M M O N O R D E R

These writ petitions are filed to direct the respondent to grant the transfer of permit in respect of vehicle bearing Registration No.TN-23/CP-5535 having route permit from Tiruvannamalai to Manikkal.

2. It is the case of the petitioner in W.P.No. 6692 of 2021 that the 3rd respondent one G. Suryakala is holding a stage carriage permit in respect of the vehicle bearing Registration No.TN-23-CP-5535, having a route permit from Tiruvannamalai to Manikkal via. Kottakulam, Moraiyur Road Junction, Chengam, Arattavadi, Melavanakkambadi, Puliyampatti etc., places.

3. The 3rd respondent in W.P.No. 6692 of 2021 namely, G.Suryakala intended to transfer the vehicle along with the permit in favour of the petitioner, M.Meenakshi, wife of Manikandan. Both Suryakala / transferor and Meenakshi / Transferee have filed a joint application for transfer of the said stage carriage permit under Section 82(1) of the Motor Vehicles Act but the same has been rejected by the 2nd respondent on the ground that one D.V.Sudarsan, son of Vijayaraj, the 4th respondent in W.P.No. 6692 of 2021 has raised certain objections that he has purchased the stage carriage from the 3rd respondent on an oral agreement and has also parted with the amount and apart from that he has also filed a suit for specific performance before the Principal District Munsif Court, Tiruvannamalai in O.S.No. 107 of 2020.

4. As against the order rejecting the joint application, the transferor / Suryakala and the transferee / Meenakshi have filed a separate writ petitions in W.P.Nos. 1868 of 2021 and 6692 of 2021 respectively. Even before that, the permit holder, Suryakala has filed another writ petition in W.P.No. 18225 of 2020 directing the respondent to effect the transfer of permit based on her representation dated 28.09.2020. Since the issue involved in these writ petitions are same therefore, these writ petitions are decided to taken up together.

5. Mrs.S.Radha Gopalan, learned counsel for the petitioner in W.P.No. 6692 of 2021 by referring the provision under Section 82(1) of the Motor Vehicles Act would submit that any permit shall not be transferable from one person to another except with the permission of the Transport Authority, who granted the permit and therefore, the Authority who granted the permit alone has got the jurisdiction and power to transfer the permit to one person to another.

6. In this case, the impugned order has been passed by the 2nd respondent, the Regional Transport Officer, who is not the transport authority as per the act. She would further submit that as per Section 94, there is a bar on jurisdiction of Civil Courts in certain cases and therefore, order passed by the 2nd respondent by referring the suit pending in O.S.No. 107 of 2020 is not proper. Section 94 the Motor Vehicles Act, 1988 is extracted as under:

"94. Bar on jurisdiction of Civil Courts. - No Civil Court shall have jurisdiction to entertain any question relating to the grant of a permit under this Act, and no injunction in respect of any action taken or to be taken by the duly constituted authorities under this Act with regard to the grant of a permit, shall be entertained by any Civil Court."

7. Mr.M.Elumalai, learned counsel for the respondents would submit that as per the writ petition filed in W.P.No. 18225 of 2020 and based on the materials available on the record, the 2nd respondent has passed the impugned order.

8. This Court paid its anxious considerations to the rival submissions made and perused the materials available on record.

9. The petitioner, Suryakala in W.P.No. 1868 of 2021 is a permit holder of the vehicle bearing Registration No.TN23 CP 5535, having a route permit from Tiruvannamalai to Manikkal. The petitioner in W.P.No. 6692 of 2021 namely, Meenakshi has entered into an agreement to purchase the said vehicle and the permit holder / Suryakala has agreed for the transfer of permit and they have made a joint application for transfer of the stage carriage permit before the respondents. As per Section 82(1) of the act, the permit shall not be transferable from one person to another except with the permission of the Transport Authority. In this case, the respondents have passed this order by referring an objection raised by one Sudarsan, the 4th respondent in W.P.No. 6692 of 2021 that he has entered into an oral agreement with the permit holder namely, Suryakala and has also filed a civil suit in O.S.No. 107 of 2020.

10. As pointed out by the learned counsel for the petitioner, there is a specific bar for the jurisdiction of the Civil Courts in certain cases and admittedly, this civil suit has been filed based on an oral agreement. More over, the 2nd respondent in W.P.No. 6692 of 2021, who is not a competent authority for transfer of permit as per Section 82(1) of the Motor Vehicle Act has passed the impugned order.

11. Accordingly, the writ petitions filed in W.P.Nos. 6692 & 1868 of 2021 is allowed, the impugned order rejecting the joint application is set aside and this matter is remanded back to the first respondent, Transport Authority to take a decision on the transfer of permit submitted by the petitioner. The Transport Authority shall take a decision within a period of 12 weeks from the date of receipt of a copy of this order.

12. In view of the orders passed in W.P.Nos. 6692 & 1868 of 2021, the writ petition filed in W.P. 18225 of 2020 is dismissed as infructuous. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

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To:

1.The Regional Transport Authority,
Tiruvannamalai.

2.The Regional Transport Officer,
The Regional Transport Office,
Tiruvannamalai.

+1cc to Mr.P.Kannan Kumar, Advocate SR.No.19103

+1cc to Mrs.S.Radha Gopalan, Advocate SR.No.19297

+1cc to Government Pleader, High Court, Madras SR.No.19131

W.P.No. 6692, 1868 of 2021 & 18225 of 2020
and
W.M.P.Nos. 7245, 7246 & 2111 of 2021

EV(CO)
GMY(29/04/2021)