



C.R.P.Nos.1081, 1082 & 1115 of 2020 & W.P. No.10037 of 2021 & C.M.P. Nos.5887, 5894, 6067 of 2020 and W.M.P. No.10674 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM :

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

C.R.P.Nos.1081, 1082 & 1115 of 2020 &
W.P. No.10037 of 2021 &
C.M.P. Nos.5887, 5894, 6067 of 2020 and
W.M.P. No.10674 of 2021

C.R.P. No.1081 of 2020

K.M. Anbarasu

... Petitioner

Vs.

1. The Regional Transport Authority
Dharmapuri Region,
Collectorate
Dharmapuri - 5

2. K.M. Inbasekaran

... Respondents

C.R.P. No.1082 of 2020

K.M. Anbarasu

... Petitioner

Vs.

1. K.M. Jagadeesan
2. The Regional Transport Authority
Dharmapuri Region,
Collectorate



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- Dharmapuri - 5
3. M. Rajammal
4. K.M. Inbasekaran
5. C. Senthamari
6. I. Shanmugaraja
7. A. Nithin Maharaja

... Respondents

C.R.P. No.1115 of 2020

K.M. Anbarasu

... Petitioner

Vs.

1. K.M. Inbasekaran
2. The Regional Transport Authority
Dharmapuri Region,
Collectorate
Dharmapuri - 5
3. M. Rajammal
4. C. Senthamari
5. K.M. Jegadheesan
6. I. Shanmugaraja
7. A. Nithin Maharaja

... Respondents

W.P. No.10037 of 2021

K.M. Jagadheesan

... Petitioner

vs.

1. The Regional Transport Authority,
Dharmapuri.
2. The Regional Transport Officer,
Dharmapuri.

...Respondents



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Prayer in C.R.P. No.1081 of 2020: Civil Revision Petition filed under Article 227 of the Constitution of India against the decree and judgment dated 12.09.2019, made in M.V.APP. No.16 of 2019, on the file of State Transport Appellate Tribunal, Chennai.

Prayer in C.R.P. No.1082 of 2020: Civil Revision Petition filed under Article 227 of the Constitution of India against the decree and judgment dated 12.09.2019, made in M.V.APP. No.11 of 2019, on the file of State Transport Appellate Tribunal, Chennai.

Prayer in C.R.P. No.1115 of 2020: Civil Revision Petition filed under Article 227 of the Constitution of India against the decree and judgment dated 12.09.2019, made in M.V.APP. No.12 of 2019, on the file of State Transport Appellate Tribunal, Chennai.

Prayer in W.P. No.10037 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate writ or order or direction directing the respondents to renew the fitness certificate of the petitioner's bus bearing Registration No.TN-29-AA-7755 to ply on the route Pennagaram to Hosur based on the petitioner's representation dated 17.03.2021.

For Petitioner

(in all the CRPs) : Mr. T. Mohan
for Mr.R.S. Vijaya Prasad



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Respondents

In C.R.P. No.1081/2020

For R1 : Mr. P. Harish
Government Advocate
For R2 : Mrs. Radha Gopalan, Senior Counsel
for K.Hariharan

In C.R.P. Nos.1082 & 1115 of 2020

For R1 : Mrs. Radha Gopalan, Senior Counsel
for K.Hariharan
For R2 : Mr. P. Harish
Government Advocate

In W.P. No.10037 of 2021

For Petitioner : Mr. S.N. Kirubanandam
For Respondents : Mr. S.P. Karthik, Government Advocate

COMMON ORDER

These Civil Revision Petitions are filed by the youngest son of late K.C.Maran, K.M. Anbarasu against the orders of M.V.Appeal Nos.11, 12 and 16 of 2019 filed under Section 89 (1) (a) of the Motor Vehicles Act, 1988 (herein after called as "MV Act") on the file of the State Transport Appellate Tribunal, Chennai, all dated 12.09.2019 filed by K.M.Jagadeesan, K.M.Inbasekaran and K.M.Anbarasu, respectively.



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2.The facts of the case in the simplest terms would flow as follows:

One K.C.Maran of Palacode, Dharmapuri District was the holder of two bus permits for buses bearing Registration No.TN 29-AB 0555 plying between Dharmapuri and Athipalli border and TN 29-AA 7755 between Penagaram and Hosur. There was also another spare bus bearing Registration No.TN 29-D 9955. K.C.Maran expired on 12.08.2016. One of his legal heirs K.M.Inbasekaran intimated about the demise of his father on 26.08.2016 as required under the first proviso to Section 82 (2) of MV Act, 1988. Subsequently, K.M.Jagadeesan another son and legal heir applied for transfer of the permit in respect of TN 29-AA 7755 plying between Penagaram and Hosur. It was originally in the name of his deceased father late K.C.Maran. He produced the death certificate, legalheirship certificate and No Objection Certificate from the other legal heirs along with his application on 14.11.2016 for transfer of the permit to his name. However, on 15.11.2016, another legal heir Smt.C.Senthamarai, daughter of late K.C.Maran withdrew her consent



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vide a letter dated 14.11.2016 in the presence of the RTO. Therefore, a personal hearing was held by the RTO, Dharmapuri on 27.12.2016 in the presence of all the legal heirs. Mrs.Senthamarai gave an objection once again in writing for any transfer of permit. In the same meeting one of the legal heirs (K.M.Anbarasu) had requested for another date of hearing as his joint application along with his brother K.M. Inbasekaran dated 14.11.2016 for transfer of the permit in respect of TN 45-AT 6124 plying between Kaveripattinam and Hosur in respect of Bus No.TN 29-H 9255 already in the name of his brother K.M.Inbasekaran to his name was pending. Another request application was also filed by the said K.M.Inbasekaran to transfer the permit of TN 29-AB 0555 plying between Dharmapuri and Athipalli border to his name from the existing permit in his deceased father's name. Therefore, all these requests were kept pending for a decision to be taken later as Mrs.Senthamarai, the daughter of the deceased K.C.Maran once again had raised objection for the transfer.



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3. The said K.M.Jagadeesan in the meanwhile, filed a Writ Petition in W.P.No.27102 of 2018 in this Court in which this Court vide orders dated 28.10.2018 directed the RTO to proceed with the enquiry and pass suitable orders on merits. Pursuant to the said orders, the RTO conducted a meeting on 28.03.2019 in which the other legal heirs namely Mrs.Rajammal, the widow of the deceased K.C.Maran, Mrs.Senthamarai (daughter), Mr.K.M.Anbarasu and his son Mr.Nithin Maharaj objected to the transfer of all permits including the one pertaining to the bus TN 29-AA 7755 plying between Penagaram and Hosur. K.M.Jagadeesan and K.M.Inbasekaran took a plea that once no objection certificate was given, it cannot be withdrawn and therefore, the RTO ought to have ignored the withdrawal of consent by the other legal heirs and proceeded with the transfer of permit. However, the RTO Dharmapuri held in his orders dated 23.04.2019 that the applications of Mr.K.M.Jagadeesan, K.M.Inbasekaran stand rejected and that since the permit has lapsed the buses should not ply. In the case of K.M.Anbarasu, the joint applicant and permit holder K.M.Inbasekaran had withdrawn his consent for transfer of the permit and



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therefore the said application was also rejected.

4. All the three brothers namely K.M.Jagadeesan, K.M.Inbasekaran and K.M.Anbarasu aggrieved over these orders had preferred different M.V.Appeals with different prayers before the State Transport Appellate Tribunal, Chennai in M.V.Appeal Nos.11, 12 & 16 of 2019 respectively. All the three appeals were allowed by the State Transport Appellate Tribunal, Chennai, setting aside the orders of the RTO. In M.V.Appeal Nos. 11 & 12 of 2019 the matter was remitted back to the RTO directing him to transfer the permits to both the appellants within one month period from the date of the order. In M.V.Appeal No.16 of 2019 the RTO was directed to properly inform the appellant K.M.Anbarasu about the withdrawal of the consent on 29.12.2016 by the joint applicant K.M.Inbasekaran for transfer of permit of bus TN 45-AT 6124 plying between Kaveripattinam and Hosur and also the spare bus TN 29-H 9255 which belonged to K.M.Inbasekaran and then consider afresh the matter of transfer of permit. K.M.Jagadeesan filed W.P.No.10037 of



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2021 praying for a direction to the RTO to issue fitness certificate to the bus TN 29-AA 7755 pursuant to the orders of the State Transport Appellate Tribunal, Chennai to transfer the permit in his name. This writ petition is also taken up along with the Civil Revision Petitions.

5. Aggrieved over the orders of the three M.V.Appeals, the present Civil Revision Petitions are filed by K.M.Anbarasu youngest son of late K.C.Maran.

6. Mr.T.Mohan, learned counsel for the revision petitioner would contend that while there is a clear family arrangement even before the demise of his father amongst the three brothers and while M.V.Appeal Nos.11 & 12 of 2019 were allowed by the State Transport Appellate Tribunal, Chennai specifically directing the RTO to transfer the permits as requested for, M.V.Appeal No.16 of 2019 though was allowed did not give such a direction but just remitted back the case to the RTO for intimating the withdrawal of consent and then considering the application



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afresh. Thus, according to the counsel there was no equity and all the three appeals ought to have been treated on equal footing.

7. Per contra Mrs.Radha Gopalan, learned Senior Counsel assisted by Mr.K.Hariharan, learned counsel for the respondents contended that the State Transport Appellate Tribunal, Chennai was right in taking a fair and reasonable approach by citing various rulings on the subject. Her main contention was that the legal heirs did not go for any partition suit in a Civil Court and succession is not defined in M.V. Act. According to her, M.V. Act is intended for public welfare and that when the permits are declined to be transferred to the respective legal heirs, public is deprived of the transport facility and huge inconvenience is caused besides damage to the vehicles kept idle. She also blamed the RTO for having delayed the transfer of permits and also for having accepted the withdrawal of consent without going into the reasons. It was also her contention that though the unregistered family arrangement amongst the three brothers was there it was not accorded the required importance



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thereby causing avoidable hardship. She also stressed that no Civil Court had jurisdiction over these matters as per Section 94 of M.V.Act. It was also pointed out by her that Rule 214 of Tamil Nadu M.V. Rules, 1989 applied only after the death and that Sections 82 (2) and 82 (3) of M.V. Act, 1988 elaborately dealt with the transfer of permits on the death of a permit holder. According to her all the prescribed formalities were complied with by the respondents and therefore the Civil Revision Petitions are liable to be dismissed.

8. Let us quickly go through the provisions of Section 82 (2) of Motor Vehicles Act, 1988 which reads as under :

"Where the holder of a permit dies, the person succeeding to the possession of the vehicle covered by the permit may, for a period of three months, use the permit as if it had been granted to himself: Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit: Provided further that no permit shall be so used after the date on which it would have ceased to be effective without



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renewal in the hands of the deceased holder".

This Section has the expression "succeeding to the possession of the vehicle" and not "ownership of the vehicle". Now going into the provisions of Rule No.214 of Tamilnadu Motor Vehicles Rules, 1989.

"214. Transfer of permit on death of permit holder.-

(1) An application for the transfer of permit under sub-section (3) of [section 82](#) shall be accompanied by the fee specified in the Table under rule 279 together with the certificate of death of the permit holder issued by the competent authority a heirship certificate issued by an officer of the revenue department not below the rank of a Tahsildar and No objection Certificate from all the legal heirs other than the applicant, if there are more than one legal heir to the deceased permit holder. If in such cases, the permit has been endorsed or extended under the provisions of these rules, the endorsement or extension shall cease to have effect on the date of transfer unless the Transport Authority which granted the endorsement or extension directs that it shall be continued.

(2) If the Transport Authority allows the transfer of the permit it shall call upon the applicant to produce, within four months from the date of receipt of the other



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sanctioning the transfer, the certificate Of registration of the vehicle with the particulars of the transfer of ownership of the vehicle stated thereon together with valid certificate of fitness and proof for the payment of the current tax under the Tamil Nadu Motor Vehicles Taxation Act, 1974 (Tamil Nadu Act 13 of 1974) and the permit. In the event of the applicant failing to produce the relevant records within the period of four months aforesaid, the transport authority shall revoke the sanction. The Transport Authority may delegate the power conferred upon it under sub-rule (2) to its Secretary in cases where the Secretary has sanctioned the transfer of permit. The powers referred to in sub-rule (2) shall also be exercisable by the appellate or revisional authority, as the case may be, if the transfer of permit is allowed by such authority".

Sub-Rule (1) and Sub-Rule (2) of Rule 214 imposes two requirements. One for the sanction of permit which is a pre-condition and another is a condition to be complied within four months of transfer i.e. post transfer condition.

9. In the instant case, the no objection given by



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Mrs.Senthamarai, another legal heir, was taken back by her on 14.11.2016 in the presence of the RTO, Dharmapuri. In addition, the widow of late K.C.Maran, Mrs.Rajammal also objected to the transfers on 28.03.2019. On 28.03.2019 she was joined by her daughter and her son Anbarasu and his son Nithin Maharaj. Thus, even as late as 28.03.2019 the dispute amongst the legal heirs was not resolved. The joint applicant K.M.Inbasekaran who had the third permit also withdrew his no objection as a tit-for-tat reaction. But, this no objection withdrawal cannot be equated to the one by Rajammal, Senthamarai and Anbarasu for the simple reason that the transfer of two permits was due to the death of the original holder late K.C.Maran while this was a transfer requested from one brother to another. Assuming that the permits are transferred to the applicants notwithstanding the withdrawal of no objection, the consequences will be

(a) Non-compliance of pre-condition in Section 82 (2) of the Motor Vehicles Act.

(b) The validity of the permit for four months before which the



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10. Though permits and ownership of vehicles are two different aspects, in the instant case, the ownership of the vehicles itself is disputed. It is considered as one of the estates left behind by the deceased Maran and has to be apportioned in a fair manner and only a civil suit for partition would be able to resolve the same in case of dispute. The validity or otherwise of the unregistered settlement deed which has no signature of the late K.C.Maran or anyone of the other two female legal heirs makes things worse and cannot be adjudicated or resolved in these CRPs. The prayer of W.P.No.10037 of 2021 is also answered in the discussions made above.

11. Now let us analyse the various contentions raised by the learned counsel for the respondent. The first one was regarding the legal heirs not filing a partition suit. That cannot be a valid justification for



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granting sanction of transfer of the permit. The validity or otherwise of the unregistered family arrangement would be purely the subject matter of a Civil Court in a partition suit. It was also argued that the RTO had delayed the sanction of transfer of permits without any valid reason leading to this situation. The pre-condition as laid down in Sub-Section (1) of Section 82 of Motor Vehicles Act is crystal clear and any violation is not to be allowed by the RTO. It was also argued that withdrawal of consent by Mrs.Senthamarai ought to have been disallowed since she had originally agreed to the transfer. This again is a very precarious argument and questioning the authorities and expecting them to by pass the rules does not augur well for the system. Lastly, the inconvenience caused to the public due to the cancellation of permit. The bus operator does not operate the bus as a charitable service. It is a commercial venture and Motor Vehicles Act though is intended for public convenience, it cannot be argued that transfer of permit can be allowed even without the consent of the legal heirs. The vehicle lying idle and becoming unusable is not something which the State Transport Appellate Tribunal or this Court



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should harp upon because it should be realised by the stakeholders. In such circumstances, I do not find any merit in these arguments.

12. As regards, the State Transport Appellate Tribunal orders, the orders in M.V.Appeal Nos.11 & 12 of 2019 were allowed under the pretext of public cause. As already discussed public utility may be disturbed temporarily but not on a permanent basis and allowing transfer of permit in contravention to the Section 82 is illegal. However, as regards M.V.Appeal No.16 of 2019 the orders of the State Transport Appellate Tribunal cites Rule 212 of Tamilnadu Motor Vehicles Rules 1989

"Rule 212. Withdrawal of Consent for Transfer : - When the consent of either or both the parties to the transfer of a permit is withdrawn before transfer is sanctioned, the Transport Authority shall drop further proceedings in regard to the transfer of that permit :

Provided that, when either of the parties withdraws such consent, the transport authority shall before dropping such proceedings inform the other party of the withdrawal of consent".

13. In the instant case the joint application by K.M.Inbasekaran



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and K.M.Anbarasu for transfer of the permit of the bus bearing Registration No. TN 45-A T 6124 plying between Kaveripattinam and Hosur along with a spare permit in respect of the bus bearing Registration No. TN 29-H 9255 was withdrawn by the permit holder K.M.Inbasekaran and, his wife and son had also objected to the transfer vide their letter dated 20.12.2018. However, as required by the provisions contained in the Rule 212 of Tamilnadu Motor Vehicles Rules, 1989 the withdrawal of the consent was not intimated to the beneficiary applicant K.M.Anbarasu by the RTO thereby, depriving him of the fair opportunity to represent his case again before the RTO. Though the learned counsel for the respondents has attempted to give a new interpretation that Rule 212 was applicable only to the legal heirs after the death of the permit holder, a simple reading Rule 212 does not mention that it is applicable only after the death of the original permit holder. This aspect of intimation of withdrawal of consent did not find a place in the order passed by RTO. Therefore, the State Transport Appellate Tribunal was right in allowing M.V.Appeal No.16 of 2019 and remitting back the matter to the RTO for



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compliance of Rule 212 and thereafter, decide the case on merits.

14. In view of the foregoing reasons,

- i. the CRP.No.1082 and C.R.P.No.1115 of 2020 are allowed and CRP.No.1081 of 2020 and W.P. No.10037 of 2021 are dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.
- ii. The fair and decreetal orders dated 12.09.2019, made in M.V. Appeal No.11 of 2019 and M.V. Appeal No.12 of 2019, on the file of State Transport Appellate Tribunal, Chennai, are set aside.
- iii. The fair and decreetal orders dated 12.09.2019, made in M.V. Appeal No.16 of 2019 on the file of State Transport Appellate Tribunal, Chennai, is upheld.

25.11.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
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To,
State Transport Appellate Tribunal, Chennai.

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