



W.P.No.34028 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. No.34028 of 2022
and W.M.P.No.33488 of 2022

P.Sadhasivam

... Petitioner

Vs.

1. The Regional Transport Authority,
Tiruvarur.
2. The Regional Transport Officer,
Tiruvarur.
3. The Deputy Superintendent of Police,
Economic Offences Wing (Ramanathapuram)
Camp @ Tiruchirapalli,
Trichy.

4. K.Abdul Rahman

...Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Mandamus, directing the second respondent to remove the blacklisting of the vehicles bearing Registration Nos. TN-68-P-9229 and TN-49-BD-9010 from the MParivahan E-Portal and consider the



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representation of the petitioner dated 08.11.2022 for transfer of permit in respect of the stage carriage bearing Registration No. TN-68-P-9229 plying on the Route "Thanjavur to Nagore" and the spare bus permit in respect of the vehicle bearing Registration No. TN-49-BD-9010 from the name of the deceased permit holder late A.Kamaludeen in the name of the petitioner.

For Petitioner : Mr.T.Mohan for
Mr.Vikram Veerasamy

For Respondents 1 to 3 : Mr.K.Karthick Jesanath
Government Advocate

ORDER

The writ petition has been filed to direct the second respondent to remove the blacklisting of the vehicles bearing Registration Nos. TN-68-P-9229 and TN-49-BD-9010 from the MParivahan E-Portal and consider the petitioner's representation dated 08.11.2022 for the transfer of permit in respect of the stage carriage bearing Registration No.TN-68-P-9229 plying on the Route "Thanjavur to Nagore" and the spare bus permit in respect of the vehicle bearing Registration No.TN-49-BD-9010 from the name of the



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deceased permit holder late A.Kamaludeen to the name of the petitioner.

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2. The contention of the writ petitioner is that the original owner one A.Kamaludeen was holding permit in respect of vehicle bearing Registration No.TN-68-P-9229 plying on the route "Thanjavur to Nagore" with the spare bus bearing Registration No. TN-49-BD-9010. The permit in respect of the vehicle bearing Registration No.TN-68-P-9229 is valid up to 04.06.2025 and the fitness certificate in respect of the said vehicle is valid up to 26.10.2022. The permit of spare bus bearing Registration No. TN-49-BD-9010 is valid up to 21.09.2025 and the fitness certificate in respect of the said bus is valid up to 07.01.2023.

3. According to the petitioner, he purchased the bus, along with spare bus, for a total consideration of Rs.19,00,000/- vide sale agreement dated 14.12.2020, executed by late A.Kamaludeen and consequently, the possession of buses was also given to the petitioner. The fitness certificate of the vehicle bearing Registration No.TN-68-P-9229 expired on 26.10.2022. Subsequently, the same was not renewed though the tax was



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accepted up to the quarter ending on 31.12.2022. Hence, the petitioner has come up with this writ petition.

4. In the counter filed by the first and second respondent, it is stated that since the original owner A.Kamaludeen expired on 14.09.2021, the transfer of ownership could not be made and the fitness certificate in respect of route bus bearing Registration No.TN-68-P-9229 could not be renewed. It is also stated that third respondent, vide letter dated 29.08.2022, requested the second respondent not to transfer the vehicles bearing Registration Nos. TN-68-P-9229 and TN-49-BD-9010, since the vehicles were involved in economic offences, due to which, the vehicles have been blocked in the E-Vaahan portal and further transactions are restricted. Further, as per Rule 208 of Tamil Nadu Motor Vehicle Rules, 1989, read with Section 82(1) of Motor Vehicles Act, 1988, the parties concerned have to appear before the Transport Authority. Simultaneously, as per Rule 214 of Tamil the Nadu Motor Vehicles Rules, 1989, an application under Sub-sections(2)and (3) of Section 82 of Tamil Nadu Motor Vehicles Act, 1988 shall be accompanied by the fee specified in the table under Rule 279 together with the certificate



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of death of the permit holder, legal heir certificate and no objection certificate from other legal heirs. In the instant case, the information about the death of the permit holder was not received from anybody and no application for transfer of permit was received from any legal heirs within three months of the death of the permit holder. It is also stated that there is no provision under the Motor Vehicles Act and Rules to consider the sale agreement made by the petitioner with the deceased permit holder. Hence, he prayed to dismiss the petition.

5. The learned counsel for the petitioner would submit that as far as the transfer of permit is concerned which is valid up to the year 2025, if any person succeeding to the possession of property, is entitled to apply for transfer of registration as well as permit. Therefore, the contention of the respondents that the transfer of registration and permit cannot be effected without the legal heirs is not valid.

6. The learned counsel for the respondents would submit that as against the original owner, the cases were registered by the economic



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offences wing /third respondent for allegedly receiving deposits. Hence, at this stage, the transfer of registration cannot be made. A perusal of the records would make it clear that the petitioner claims title of the property and he also produced the agreement for sale. In this regard, it is relevant to refer Section 50(2) of Tamil Nadu Motor Vehicles Act, 1988, which reads as under;

" (2) Where-

(a) the person in whose name a motor vehicle stands registered dies, or

(b) a motor vehicles has been purchased or acquired at public auction conducted by, or on behalf of, Government, the person succeeding to the possession of the vehicle or, as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicles in his name, to the registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, in such manner, accompanied with such fee, and within such period as may be prescribed by the Central Government. "



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7. The vehicles being the movable properties transfer may be either by delivery or by executing an agreement. In such view of the matter, since the petitioner already succeeded to the possession of the vehicles, is entitled to seek transfer of registration and permit. The authorities cannot contend that since there is no application form as prescribed, registration is not permissible. Prescribed format is fixed only for the purpose of convenience for effecting registration by Authorities. In such view of the matter the person who succeeds to possess the vehicles by purchase, which is not disputed by the legal heirs of the original owner, is entitled to transfer of registration. As far as the transfer of permit is concerned, Section 82(3) of the Tamil Nadu Motor Vehicles Act, 1988 would make it clear that even after the death of the original permit, owner, any person succeeding to the possession of the vehicle covered by the permit may apply within three months for the transfer of permit. The proviso to Section 82(3) of the Act also gives a power to the authorities to receive application even after expiry of the period of three months if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified. This Court is of the view that if the vehicle is kept idle



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without any renewal or transfer of permit value of the vehicle will be lost.

Therefore, this Court is of the view that the vehicle has to be given a life by way of renewing fitness certificate and transfer of registration and permit. Even if any prosecution is initiated and same culminate into confiscation proceedings by the competent Court, the authorities can take control of the vehicle for releasing the amounts as per the order passed in confiscation proceedings.

8. In such view of the matter this Court directs the respondents to effect necessary transfer of registration and permit and to renew fitness certificate, after receiving proper application from the petitioner. The petitioner is directed to submit the application within a week from today and on receipt of such application, the respondents shall transfer the registration certificate and permit and renew the fitness certificate, on payment of proper fee as specified within a week.

9. It is made clear that mere transfer of the registration certificate of the vehicles in the name of the petitioner, will not confer absolute right to



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the petitioner, except for plying the vehicle. However, the ownership is always subject to any confiscation order passed by the competent Court in this regard. In such view of the matter, the order blacklisting the vehicles, passed by the second respondent, is set aside. It is made clear that after transfer of the registration and permit of the vehicles in the name of petitioner, the petitioner shall not create any encumbrance or sell the vehicle. In the event any replacement is taken place, as per the Act, such replaced vehicles would also be subject to the confiscation proceedings.

10. With the above directions, the writ petition stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

22.12.2022

Index :Yes/No
Internet:Yes/No
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Note: Issue order copy on 23.12.2022



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N. SATHISH KUMAR, J.

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To

1. The Regional Transport Authority,
Tiruvarur.
2. The Regional Transport Officer,
Tiruvarur.
3. The Deputy Superintendent of Police,
Economic Offences Wing (Ramanathapuram)
Camp @ Tiruchirapalli,
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