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Writ Petition No.34482 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23/12/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.34482 of 2022

a n d

W.M.P.No.33930 of 2022

P. Balasubramaniam

...

Petitioner

Vs

1. The Regional Transport Authority
Tiruppur (South)

2. The Regional Transport Officer
Tiruppur (South).

...

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the second respondent to take back the petitioner's application returned by him by letter in No.040622-A2-2022 dated 30/11/2022 which was re-presented by the petitioner on 15/12/2022 without insisting for No Objection Letter from the other legal heirs as mentioned in Sr No.2 of the letter and further direct the first respondent to consider the petitioner's application for transfer of stage carriage permit in respect of the vehicle bearing Registration No.TN-42-S-



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5995 plying on the route “Tiruppur to Udumalpet” via Palladam, Gudimangalam and with shuttle between Tiruppur and Coimbatore via, Palladam along with spare bus permit vehicle No.TN-39-Y-9889 minibus vehicle No.TN-42-AD-2999 to ply on the route “Veerapandi to Kanjayampalayam” and transfer the vehicles along with permits from the name of the petitioner's father Late.Thiru.Palanisamy Gounder, the permit holder, in the name of the petitioner.

For Petitioner	...	Mrs.S.Radhagopalan for Mr.K.Hariharan
For respondents	...	Mr.K.Karthick Jeganath Government Advocate

ORDER

This writ petition has been filed praying to to direct the second respondent to take back the petitioner's application returned by him by letter dated 30/11/2022 which was re-presented by the petitioner on 15/12/2022 without insisting for No Objection Letter from the other legal heirs as mentioned in Sl.No.2 of the letter and further, direct the first respondent to consider the petitioner's application for transfer of stage carriage permit in respect of the vehicle bearing Registration No.TN-42-S-5995 plying on the



route “Tiruppur to Udumalpet” via Palladam, Gudimangalam and with shuttle between Tiruppur and Coimbatore via, Palladam along with spare bus permit vehicle No.TN-39-Y-9889 minibus vehicle No.TN-42-AD-2999 to ply on the route “Veerapandi to kanjayampalayam” and transfer the vehicles along with permits from the name of the petitioner's father Late.Thiru.Palanisamy Gounder, the permit holder, in the name of the petitioner.

2. The case of the petitioner is that father of the petitioner viz., K.Palanisamy was holding a stage carriage permit on the route "Tiruppur to Udumalpet" via, Palladam, Gudimangalam and with shuttle between Tiruppur and Coimbatore, via., Palladam in respect of vehicle bearing No.TN-42-S-5995 along with spare bus permit vehicle No.TN-39-Y-9889. Apart from this, the petitioner was holding a mini bus permit to ply on the route "Veerapandi to Kanjayampalayam" in respect of vehicle No.TN-42-AD-2999, permits being issued by the first respondent.

3. Father of the petitioner, died on 31/8/2022, leaving behind his wife, daughter and two sons, as his legal heirs. Petitioner's mother and one of his brother Sivakumar left the family seventeen years back and they were living



separately. Father of the petitioner executed a registered Will on 10/2/2020, bequeathing all the above mentioned vehicles along with the permits in favour of the petitioner.

4. Since the petitioner has to apply for transfer of permit, within three months from the date of the death of the permit holder, the petitioner had applied for the same, by application, dated 8/11/2022, along with Form 31. All the permits along with the vehicles have been bequeathed in petitioner's favour by a registered Will, who is the beneficiary is entitled to hold the permits along with the vehicles. Therefore, the question of either producing no objection letters from other legal heirs apart from the petitioner or appear before the second respondent and sign the No Objection letter does not arise at all.

5. But, the second respondent, vide, letter, dated 30/11/2022 has returned the application of the petitioner, for production of legal heirship certificate and apart from the petitioner, no objection certificates to be obtained from other legal heirs and to be appeared before the second respondent.



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6. When all the permits along with the vehicles have been bequeathed in favour of the petitioner by a registered Will, who is the beneficiary is entitled to hold the permits along with the vehicles, the question of either producing No Objection letters from other legal heirs apart from the petitioner does not arise at all.

7. Hence, the petitioner has filed the instant writ petition, praying for the relief as stated therein.

8. Heard Ms.S.Radthagopalan, learned counsel for the petitioner and Mr.K.Karthick Jeganath, learned Government Advocate for the respondents 1 and 2.

9. The learned counsel appearing for the petitioner submitted that the application has been filed within 30 days, after the death of his father, under Section 82 (2) of the Motor Vehicles Act. Despite such application has been filed, the authorities have returned the application and insisting for No Objection Certificate. According to him, once the registered Will has been executed by their father, question of producing No Objection Certificate from



other legal heirs does not arise at all. Hence, compliance of Rule 214 (1) of the Tamil Nadu Motor Vehicle Rules, will not apply to the present case.

According to him, Motor Vehicles Act are special enactment. Therefore, merely because the Will has been executed, the same will not be a ground to bye-pass the Rules.

10. It is relevant to extract Section 82 of the Motor Vehicles Act, 1988, reads as follows:-

Transfer of permit - (1) Save as provided in sub-section (2), a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not, without such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

(2). Where the holder of a permit dies, the person succeeding to the possession of the vehicle



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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 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 renewal in the hands of the deceased holder.

(3). The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit.

Provided that the transport authority may entertain an application made after the expiry of the said 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."

11. A perusal of the above Section makes it clear that as per Section 82 (3) of the said Act, if a person makes an application for transfer within three months from the date of the death of the permit holder, the authority shall transfer the permit to the person succeeding to the possession of the vehicles covered by the permit. Therefore, when the petitioner has made an application for transfer of permit within three months and also succeeded to the possession of the vehicles and running the same, for which there is no dispute, the authority has no other option but to transfer the permits in the name of the petitioner, under Section 82 (3) of the Motor Vehicles Act.

12. Rule 214 of the Tamil Nadu Motor Vehicles Rules reads as under:-

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



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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.”

13. Admittedly, in this case, Will has been registered. Whether the Will is proved in accordance with law is not a question before the authorities. As long as the Will is not disputed and the Will is in favour of the petitioner, the authorities cannot refuse to register the vehicle. The Will can be challenged only by other family members in the manner known to law. If a



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person succeeds to the possession of the vehicles along with the permits, then, there is no legal impediment for transferring the permit in the name of the person who has applied for transfer.

14. In such a view of the matter, writ petition is allowed and there shall be a direction to the second respondent not to insist for No Objection Letters and the first respondent is directed to transfer the vehicles along with permits from the name of the father of the petitioner viz., Late.Thiru.Palanisamy Gounder, the permit holder, to the name of the petitioner.

No costs. Consequently, the connected Miscellaneous Petition is closed.

23/12/2022

Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.



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- To
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Tiruppur (South).



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N. SATHISH KUMAR, J

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