



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) No.7575 and 9738 of 2021

and

W.M.P. (MD) No.5743 and 7439 of 2021

Jospin Sahayarani

...Petitioner in W.P.(MD).No.7575 of 2021

P.Francis Raja

...Petitioner in W.P.(MD).No.9738 of 2021

/vs./

1.The Regional Transport Officer,
Regional Transport Office,
Thiruchirappalli.

2.The Assistant Licensing Authority,
Regional Transport Office,
By-Pass Road,
Musiri Town, Musiri Taluk,
Trichy District.

3.The Inspector of Police,
Musiri Police Station,
Musiri,
Trichy District.

4.Francis Raja

...Respondents in W.P.(MD).No.7575 of 2021

1.The Regional Transport Authority Cum
District Collector,
Thiruchirappalli District.

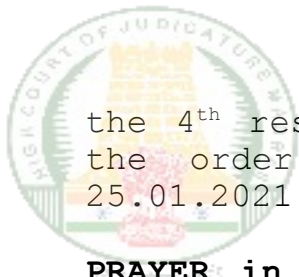
2.The Secretary,
Regional Transport Authority,
Srirangam, Trichy District.

3.Jospin

...Respondents in W.P.(MD).No.9738 of 2021

PRAYER in W.P. (MD) No.7575 of 2021: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent 1 to 3 to seize the mini bus of

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the 4th respondent bearing registration No.TN25 A 5285 pursuant to the order of the 2nd respondent made in No.3378/B1/219 dated 25.01.2021.

PRAYER in W.P. (MD) .No.9738 of 2021: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the 1st Respondent from invoking the sanction proceedings of the renewal of permit dated 27.01.2021 Under Section 194(1) of the Tamil Nadu Motor Vehicle Rules, 1989 and further directed the 2nd Respondent to hand over the original R.C.Book and permit to the Petitioner forthwith.

W.P. (MD) .No.7575 of 2021

For Petitioner : Mr.I.Velpradeep
For R1 to R3 : Mr.V.Nirmal Kumar
Government Advocate
For R4 : Mr.A.C.Asaithambi

W.P. (MD) .No.9738 of 2021

For Petitioner : Mr.A.C.Asaithambi
For R1 and R2 : Mr.V.Nirmal Kumar
Government Advocate
For R3 : Mr.I.Velpradeep

COMMON ORDER

W.P.(MD) No.7575 of 2021 has been filed for a Mandamus to direct the respondent 1 to 3 to seize the Mini Bus of the 4th respondent/petitioner in W.P.(MD) No.9738 of 2021, bearing Registration No. TN 25 A 5285 pursuant to the order of the 2nd respondent in No.3378/B1/219 dated 25.01.2021.

2.W.P.(MD) No.9738 of 2021 has been filed for a Mandamus to forbear the 1st respondent from invoking the sanction proceedings of the renewal of permit dated 27.01.2021 under Section 194(1) of the Tamil Nadu Motor Vehicle Rules, 1989 and to direct the 2nd respondent to hand over the original R.C.Book and permit to the petitioner forthwith.

3.The petitioner in W.P.(MD) No.9738 of 2021, Francis Raja shall be referred to as the petitioner and the petitioner in W.P.(MD) No.7575 of 2021, Jospin Sahayarani shall be referred to as the 3rd respondent. The petitioner is the son-in-law of the 3rd respondent. There is a private dispute between them. The petitioner



is married to the 3rd respondent's daughter. There is a marital discord between the couples.

4. During the interregnum, the petitioner wanted to transfer the Mini Bus bearing Reg.No.TN 25A 5285 to one Sathyaraj and therefore filed an application before the official respondents for renewing the permit for the period between 15.09.2020 and 14.09.2025. Prior to the filing of the application and for renewing the permit, the petitioner had filed a police complaint stating that he had lost the original documents and thus obtained a duplicate copy of the documents by invoking Rule 215 of the Motor Vehicles Rules, 1989, which reads as under:-

"215. Permit lost – issue of duplicate.-

(1) When permit has been lost, destroyed or mutilated, the holder of the permit shall forthwith intimate the fact in writing to the Transport Authority by which the permit was issued and forward his application for the issue of a duplicate permit.

(2) The Transport Authority shall upon receipt of an application in accordance with sub-rule (1), issue a duplicate permit and endorse thereon certified copies of any endorsement or extension of validity by other authorities intimating the fact to that other authorities.

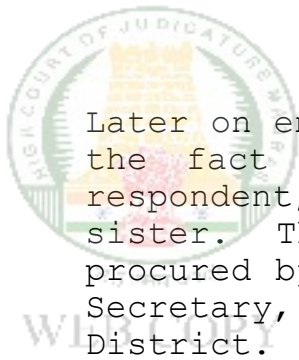
(3) A duplicate permit shall be clearly stamped "Duplicate" in red ink.

(4) If the Transport Authority, any Inspecting Officer of the Transport Department or any Police Officer above the rank of Sub-Inspector of Police, considers that a permit has become dirty, torn or otherwise defaced so as to be illegible, a notice to this effect shall be served on the holder of the permit and within seven days of the service of this notice the holder shall surrender the permit to the Transport Authority and apply for the issue to him of a duplicate permit in accordance with sub-rules (1) to (3).

(5) The fee for the issue of duplicate permits and duplicate endorsement or extension of validity of permit shall be as specified in the Table under rule 279.

(6) Any permit which is found by any person shall be delivered by that person to the nearest Police Station or to the holder or to the Transport Authority by which it was issued and, if the holder finds or receives any permits in respect of which a duplicate has been issued, he shall return original to the Transport Authority by which it was issued."

5. The petitioner had earlier filed W.P.(MD) Nos.3451 and 12989 of 2019 and 13928 of 2020. The petitioner was thereafter issued with a duplicate copy of the certificate of registration on 08.01.2019.



Later on enquiry, it was revealed that the petitioner had suppressed the fact that the RC book of the Mini Bus was with the 3rd respondent, Jospin Sahayarani, who is incidentally the petitioner's sister. The duplicate certificate of registration, which was procured by the petitioner, was thus cancelled on 20.01.2021 by the Secretary, Regional Transport Authority, Srirangam, Tiruchirappalli District.

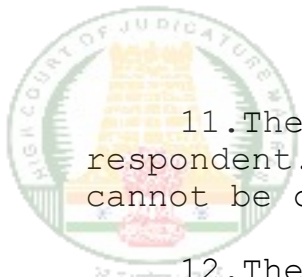
6.The petitioner is thus aggrieved by the subsequent order dated 27.01.2021 of the 1st respondent, which enjoins the petitioner to produce the original certificate of registration, original permit along with valid records of tax, fitness certificate, insurance certificate etc., It is submitted that this condition is onerous and cannot be complied with as the 3rd respondent is unwilling to hand over the original documents to the petitioner and that the cancellation of the duplicate certificate dated 20.01.2021 by the 2nd respondent is without authority of law.

7.Opposing the prayer, the learned counsel for the 3rd respondent (Jospin Sahayarani) submits that there is a private dispute and that the petitioner had purchased the Mini Bus out of the loan given to the petitioner and therefore, the original documents were pledged with the 3rd respondent and that the petitioner has failed to discharge the loan. It is further submitted that the petitioner has abandoned the 3rd respondent's daughter, who is married to the petitioner and therefore that there being the private dispute between them, writ petition is not maintainable.

8.It is further submitted that without challenging the cancellation of the duplicate permit granted vide order dated 20.01.2021 by the 2nd respondent, W.P.(MD) No.9738 of 2021 is also not maintainable. It is therefore submitted by the learned counsel for the 3rd respondent that the aforesaid vehicle bearing Reg.No.TN 25A 5285 should be seized and handed over to the 3rd respondent as the petitioner has not discharged the loan.

9.The official respondents have confirmed that the original certificate of registration of the aforesaid vehicle was with the 3rd respondent. It was produced for inspection before the 2nd respondent and pursuant to that, the aforesaid order dated 20.01.2021 was passed.

10.I have considered the arguments advanced by the learned counsel for the petitioners, learned counsel for the official respondents and the learned counsel for the private respondent. I also perused the affidavits filed by the petitioners in the respective writ petitions and the counter and considered the stand of the official respondents.



11. There is a private dispute between the petitioner and the 3rd respondent. Whether there was a un-discharged loan subsisting or not cannot be decided in this writ petition.

12. The petitioner is required to establish his right to sell the vehicle by securing appropriate orders from a Civil Court and until such decree is obtained, the petitioner cannot legally transfer the vehicle to a third party. In any event, the third party, to whom the petitioner proposed to sell the vehicle, is also not a party to the proceeding before this Court. The 3rd respondent, Jospin Sahayarani also cannot stand in the way of renewal of the permit.

13. Considering the above, these writ petitions are disposed of by directing the official respondents to renew the licence permit subject to either the petitioner or the 3rd respondent paying the necessary charges for renewal. Whether the petitioner in W.P.(MD) No.9738 of 2021 is entitled to sell the vehicle or whether the petitioner in W.P.(MD) No.7575 of 2021 is entitled for seizure of the vehicle will be subject to the final outcome of the proceedings to be initiated by the respective petitioners before the civil Court in respect of the money dispute between them. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Regional Transport Officer,
Regional Transport Office, Thiruchirappalli.
2. The Regional Transport Authority Cum District Collector,
Thiruchirappalli.
3. The Secretary,
Regional Transport Authority, Srirangam, Trichy District.
4. The Assistant Licensing Authority,
Regional Transport Office,
By-Pass Road,
Musiri Town, Musiri Taluk,
Trichy District.



5.The Inspector of Police,
Musiri Police Station,
Musiri,
Trichy District.

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+1 CC to M/s.SPL GP (SR-12722[F] & SR-12724[F] dated 17/03/2022)
W.P. (MD) No. 7575 and 9738 of 2021
16.03.2022

MGJ(04.04.2022) 6P 8C