



WP(MD)No.6569 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.07.2022

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THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.6569 of 2022

C.Rabeek Raja

.. Petitioner

Versus

1.The District Collector-cum-The Regional Transport Authority,
Madurai.

2.The Regional Transport Officer,
Madurai North.

3.The State Rep. by
The Inspector of Police,
Keelavalavu Police Station,
Madurai District.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records of the impugned order of the second respondent, vide Na.Ka.No. 22275/A2/2021, dated 23.04.2021, quash the same and further direct the second respondent to grant replacement of the existing stage carriage vehicle bearing Registration No.TN-59-AX-3555 with vehicle bearing Registration No.TN-59-BU-9565 with regard to the stage carriage permit of the petitioner on the route from Madurai to Ponnamaravathi.

For Petitioner : Mr.R.Anand

For Respondents : Mr.S.Kameswaran
Government Advocate



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ORDER

The petitioner has filed this Writ Petition to set aside impugned order passed by the second respondent in Na.Ka.No.22275/A2/2021, dated 23.04.2021, directing the petitioner to produce all the relevant documents as per Section 83 of the Motor Vehicles Act, 1988, for replacement of the existing stage carriage vehicle bearing Registration No.TN-59-AX-3555 with the vehicle bearing Registration No.TN-59-BU-9565, with regard to the stage permit of the petitioner's vehicle on the route from Madurai to Ponnamaravathi.

2.The petitioner is the owner of vehicle bearing Registration No.TN-59-AX-3555, and operating the said stage carrier on the route viz., Madurai to Ponnamaravathi. The second respondent has granted necessary permit and it is valid till 31.10.2025. The permit has been periodically renewed. Since the abovesaid stage carrier became worn out, the petitioner intends to replace the said vehicle with another bus bearing Registration No.TN-59-BU-9565, for which, the Registration Certificate and other documents are necessary.

3.A case has been registered against the petitioner in Crime No.166 of 2012, by the Keelavalavu Police for the offences under Sections 120-B, 147, 420, 447, 379, 434, 465, 467, 468, 471, 304(ii) read with Sections 511, 109,



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114, 297 I.P.C. and Section 3(i) and 3(ii) and Section 4 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992, Sections 3(a), 4(a) and 6 of the Explosive Substances Act, 1908, and Sections 3(i)(iv) and 3(i)(xiv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Investigation has been completed and charge sheet has been filed in this case. It is pending committal in P.R.C.No.12 of 2016 before the Judicial Magistrate Court, Melur.

4.The bus has been seized on the premise that it was purchased using the earnings derived by illegal manner, for which, the case is pending. The petitioner's vehicle was seized as early as in the year 2012 and thereafter, the petitioner filed return of property petition under Section 451 of Cr.P.C. in Cr.M.P.No.6366 of 2012. The learned Judicial Magistrate, by order dated 29.10.2012, allowed the interim custody of the vehicle bearing Registration No.TN-59-AX-3555 to the petitioner with certain conditions. One of the conditions is that the petitioner shall surrender the original R.C. Book in the Court and thereafter, the petitioner has plied the stage carrier without any break.

5.As and when the renewal date falls, the petitioner usually filed an appropriate petition before the learned Judicial Magistrate and the learned



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Judicial Magistrate directly sent the same to the second respondent/Regional Transport Officer, Madurai [North], who shall renew the permit after inspecting the vehicle and also on payment of requisite fee. This has been the regular practice. In the meanwhile, in the year 2016, a situation arises, wherein some doubt had arisen that without the permission of the Court, the petitioner had taken out the R.C. book of the vehicle for renewal.

6. In the year 2016, the petitioner had filed a return of property petition seeking return of his R.C. Book in Cr.M.P.No.5463 of 2016, which was dismissed on 07.12.2016, against which, the petitioner had preferred a revision in CrI.R.C.(MD)No.27 of 2017, which was disposed of on 27.02.2017. Thereafter, allegations were made as if the petitioner, in the interregnum period, had removed the Registration Certificate of the bus illegally. On such allegation, the order passed in CrI.R.C.(MD)No.27 of 2017 came to be recalled with a direction to the learned Judicial Magistrate, Melur, to conduct an enquiry in this regard. Thereafter, the learned Judicial Magistrate, Melur, conducted an enquiry and found that the allegations are not proper and there was no illegal removal of the Registration Certificate of the vehicle by the petitioner. Thereafter, the petitioner had mentioned before this Court to recall the order of dismissing the revision, since the concerned Magistrate found the charges to be baseless. This Court, by order dated 14.11.2019, had narrated



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the entire sequence of events and held that the Court is conscious of the fact that the bar under Section 362 of Cr.P.C., entails this Court to keep its hands away, however, without transgressing Section 362 Cr.P.C., granted liberty to the petitioner to file appropriate petition before the Judicial Magistrate Court, Melur, for sending the RC Book to the Regional Transport Officer, Madurai (North), for the purpose of renewal of the RC Book and payment of necessary taxes and also for the purpose of replacement of the vehicle. Following the same, the petitioner had filed a petition before the learned Judicial Magistrate, Melur, which is still pending. In the meanwhile, the petitioner had filed an application before the concerned Regional Transport Officer for replacement of the vehicle bearing Registration No.TN-59-AX-3555 with the vehicle bearing Registration No.TN-59-BU-9565. Thereafter, the impugned order has been passed. Hence, the present Writ Petition.

7.The learned counsel for the petitioner submitted that in a similar situation, this Court had granted the relief of substituting the vehicle in **W.P. (MD)No.12245 of 2020, dated 30.09.2020 [K.Murugesan vs. The District Collector-cum-The Regional Transport Authority, Sivagangai and others]**. The respondents therein had filed an appeal in W.A.(MD)No.395 of 2021 against the said order. This Court confirmed the order of the learned Single Judge in the said Writ Appeal, vide judgment dated 15.03.2021.



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WEB COPY 8. The third respondent filed a counter affidavit. The learned Government Advocate appearing for the respondents submitted that the petitioner's vehicle has been involved in a criminal case, for which, a case has been registered by Keelavalavu Police and the vehicle was seized. Thereafter, the petitioner moved a return of property petition under Section 451 of Cr.P.C. in the year 2012 and the vehicle was returned and periodically, permit was renewed. In the meanwhile, there was a complaint against the petitioner that he removed the Registration Certificate from the Court without the permission and thereafter, the earlier relief given was cancelled by this Court in CrI.R.C. (MD)No.27 of 2017. With such credentials, the petitioner was not permitted to substitute the vehicle. Further, the bus is the material object in Crime No. 166 of 2012 and the same is required for trial. The learned Government Advocate appearing for the respondents further submits that the petitioner has involved in eight criminal cases and committed loss to the State Exchequer by involving himself in an offence under the Mines and Minerals Act and strongly opposed this Petition.

9. Considering the above said rival submissions and on perusal of the materials, it is seen that now this Court has been called upon not to consider the merits of the criminal case, since it is only limited purpose as to whether



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the substitution of the bus can be permitted and whether it is within the purview of the Motor Vehicles Act. As per Section 83 of the Motor Vehicles Act, necessary documents pertaining to the vehicle has to be produced along with the application. In this case, due to the criminal case, the Registration Certificate is retained by the learned Judicial Magistrate, Melur. Hence, it could not be submitted along with the application. The usual procedure followed is that an application will be filed simultaneously before the Regional Transport Officer as well as before the Judicial Magistrate and the Judicial Magistrate would send the R.C. Book to the concerned Regional Transport Officer, who shall thereafter, extend the permit. Now, in this case, it is required for replacement of the bus bearing Registration No.TN-59-AX-3555 with the vehicle bearing Registration No.TN-59-BU-9565. Thus, the impugned order of the second respondent/Regional Transport Officer, Madurai (North), citing the vehicle is the property in the criminal case in Crime No.166 of 2012, is not proper.

10.From the year 2012, the vehicle has been continuously plying as stage carrier and permit has also been periodically renewed. In view of the same, the impugned order is set aside. The learned Judicial Magistrate, Melur, shall pass order of forwarding the R.C. Book to the concerned Regional Transport Officer, so that, the Regional Transport Officer can replace the



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vehicle bearing Registration No.TN-59-AX-3555 with the vehicle bearing Registration No.TN-59-BU-9565 along with the permit in favour of the petitioner. The respondents 1 and 2 are directed to permit the petitioner to replace the petition mentioned vehicle by a new vehicle bearing Registration No.TN-BU-9565. The entire exercise shall be completed within a period of three weeks from the date of receipt a copy of this order.

11.With the above directions, this Writ Petition is disposed of. No costs.

Index : Yes/No
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To

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M.NIRMAL KUMAR, J.

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