



W.A.Nos.145 and 146 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.06.2023

Coram:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE P.DHANABAL

Writ Appeal Nos.145 and 146 of 2014

and

M.P.No.1 + 1 of 2014

N.Revathy

.. Appellant in both appeals

Vs.

1. Thangavelu Mudaliar,
Sri Vijayalakshmi Bus Services,
118 F Gandhi Road,
Arakonam, Vellore District.

2. S.Sivakumar

3. The Regional Transport Authority,
Thiruvannamalai District,
Thiruvannamalai.

4. The State Transport Appellate Tribunal,
City Civil Court Buildings,
Chennai-600 104.

.. Respondents in both appeals

Writ Appeal No.145 of 2014 filed under Clause 15 of the Letters Patent
against the order dated 07.01.2014 passed by the Single Judge, in W.P.No.4801
of 2010 on the file of this Court.

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Writ Appeal No.146 of 2014 filed under Clause 15 of the Letters Patent against the order dated 07.01.2014 passed by the Single Judge, in W.P.No.5628 of 2010 on the file of this Court.

For appellant in both appeals : Mr.M.Palani

For respondents in both appeals: Mr.R.Singaravelan, Senior Counsel for

J.Shanmuga Sundara Babu for R-1

Mr.M.Krishnappan, Senior Counsel for

Mrs.R.Swarnalatha for R-2

Mrs.R.L.Karthika, Govt. Advocate for R-3

R- 4 - Tribunal

COMMON JUDGMENT

(Common Judgment of the Court was delivered by D.Krishnakumar,J

The Writ Appeals are respectively filed challenging the order dated 07.01.2014 passed by the learned Single Judge of this Court, in W.P.Nos.4801 of 2010 and 5628 of 2010.

2. According to the appellant, the joint application, dated 12.01.2000 filed by the first respondent and the deceased-permit-holder, namely M.K.Velu being the father of the appellant, has been pending for transfer of permit in favour of the first respondent. When such joint application is pending, a dispute has arisen



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between the family members of the deceased-Velu, resulting in the appellant-N.Revathy, making a representation to the Regional Transport Authority for obtaining personal permit in favour of the first respondent. The deceased-Velu being the permit-holder, filed application on 16.03.2000 requesting time to be granted for taking a decision for submitting joint application for transfer of permit in favour of the first respondent-Thangavelu Mudaliar. In the meantime, one Mr.V.Sankar, son of Mr.M.K.Velu has made objection and there was dispute between the said Sankar and his father, resulting in the said Sankar filing a suit in O.S.No.74 of 2000 before the Court below.

3. Another objection has also been made by one V.Balakrishnan who claims to be another son of the said M.K.Velu regarding the family property of the deceased Velu. A suit was also filed in O.S.No.680 of 2000 before the Additional District Munsif Court, Vellore.

4. Further, the Regional Transport Authority has passed an order on 30.05.2000 rejecting the joint application for transfer of permit on the ground that interim injunction was granted in I.A.No.191 of 2000 in O.S.No.159 of 2000 on the file of the District Munsif Court, Thiruvannamalai, being filed by the appellant-Revathy. Aggrieved by the order dated 30.05.2000, both the transferor and transferee filed First Appeal in Appeal Suit No.244 of 2000 before the State

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Transport Appellate Tribunal, Chennai, which was dismissed on 26.07.2001.

Aggrieved by the same, W.P.No.8669 of 2004 was filed by Mr.N.A.Thangavelu and the said Writ Petition was dismissed on 01.04.2004, against which, Writ Appeal in W.A.No.1590 of 2004 was filed by the first respondent-Thangavelu. In the meantime, interim direction was issued by a Division Bench of this Court on 21.04.2004 in W.A.M.P.No.2986 of 2004 in W.A.No.1590 of 2004, directing the Regional Transport Authority, Thiruvannamalai (third respondent herein) to accord permission for transfer of route permit (stage carriage bearing Vehicle Reg.No. TN.23.C.8294, which has been subsequently replaced by new vehicle Reg.No.TN-23-A-7929 plying between Vellore to Sathanur Dam, via Kannamangalam, Polur, Thiruvannamalai and Thandarampattu in favour of N.A.Thangavelu.

5. Thereafter, the deceased Velu made an application to withdraw the consent for transfer of permit and subsequently, he has also made representation on 02.05.2004 not to pursue the joint application, dated 12.01.2000.

6. In the meanwhile, the said W.A.No.1590 of 2004 was dismissed on 05.01.2005, against which, the said N.A.Thangavelu filed Special Leave Petitions



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(Civil) Nos.716-718 of 2005 before the Supreme Court and on 04.03.2005, the

Apex Court dismissed the said SLP observing as follows:

"Heard learned senior counsel for the parties.

We do not find any ground to interfere with the impugned order. The special leave petition is, accordingly, dismissed. It may, however, be observed that after disposal of the suit, it will be open to the petitioner to take appropriate steps by moving the Regional Transport Authority on the joint application for transfer. In case such a step is taken, the same shall be considered on its own merit subject to any objections by the respondents."

7. In the meanwhile, the said M.K.Velu died on 05.06.2008. One Mr.S.Sivakumar (second respondent herein) filed an application on 07.06.2008 before the Regional Transport Authority stating that during the life-time of his grandfather, he had executed a registered Will on 07.04.2005, by virtue of which, he was in possession of the vehicle in question.

8. Subsequently, the first respondent herein (Thangavelu Mudaliar) filed O.S.No.29 of 2005 before the Sub-Court, Thiruvannamalai, along with an application for mandatory injunction. As the said O.S.No.29 of 2005 was pending, the permit could not be transferred in the name of the legal heirs and that any transfer so made shall be subject to the disposal of O.S.No.29 of 2005.



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9. Thereafter, on 19.08.2008 and 22.08.2008, the first respondent (N.Thangavelu Mudaliar) sent detailed representations requesting the Regional Transport Authority to transfer the permit in his name and not to transfer the permit in favour of the legal heirs of the deceased-M.K.Velu till the disposal of the joint application for transfer of permit. Those representations were not considered.

10. Ultimately, by order dated 29.01.2009, the Regional Transport Authority (RTA) refused to consider the request of the first respondent- Thangavelu Mudaliar for transfer of permit in his name on the ground that the permit-holder/M.K.Velu withdrew his consent for transfer on 01.05.2004.

11. Challenging the aforesaid order dated 29.01.2009, the first respondent herein preferred appeal before the State Transport Appellate Tribunal, Chennai in M.V.Appl.No.60 of 2009 and the Tribunal, by order dated 02.12.2009, allowed the appeal setting aside the above said order of the RTA, dated 29.01.2009, thereby, remitting the matter back to the RTA for fresh consideration in accordance with law and in the light of the observations made in the Tribunal's order therein, within three months from the date of receipt of a copy of the



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judgment of the Tribunal, for the sole reason that the RTA has not given sufficient opportunity either to Thangavelu Mudaliar or the legal heirs of the deceased Velu, who have objected inter-alia among other grounds of challenge.

12. As against the Tribunal's order, dated 02.12.2009 passed in Appeal Nos.60 and 59 of 2009, the appellant-Revathy preferred Writ Petitions before this Court in W.P.Nos.4801 and 5628 of 2010, and this Court, by common order dated 07.01.2014 passed along with the connected Writ Petitions in W.P.Nos.26816 and 26817 of 2009 (filed by S.Sivakumar) and W.P.Nos.4801 and 5628 of 2010 (filed by N.Revathy), observed as follows:

"13. This Court finds merit in the submissions of the learned counsel for the contesting respondent, for the reason that the deceased permit holder Mr.M.K.Velu, owner of stage carriage bearing Registration No.TN-23-C-8294, replaced by the stage carriage bearing Registration No.TN-23-AD-1999 plying on the route Vellore to Sathanur Dam via Polur, Thiruvannamalai had moved a joint application with Mr.N.Thangavelu Mudaliar for transfer of permit in respect of the above said vehicle under Section 82(1) of the Motor Vehicles Act, 1988 before the Regional Transport Authority along with necessary documents, making it clear that Mr.M.K.Velu desired to transfer the above permit to the name of the transferee, as he was an existing operator in Vellore District, the said said application was returned. However, when it was re-presented on 25.1.2000 after rectification of defects, the said transferor Mr.M.K.Velu, on 7.2.2000, had filed a statement before the Regional Transport Authority with a request to consider and pass



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necessary orders on the joint application dated 12.01.2000 seeking for transfer of permit, which shows that Mr.N.Thangavelu Mudaliar was one of the necessary parties to be heard before transferring any permit. Although Section 82 contemplated that the transfer of permit is permissible on the death of a permit holder, Rule 211 of the Tamil Nadu Motor Vehicles Rules clearly shows that the Transport Authority may summon both the parties to the application for transfer of a permit to appear before it, if the application raises doubts or suspicion of trafficking in permits or involves transfer to a person who in the opinion of the Transport Authority is not qualified and eligible for the grant of a new permit. In the present case, after the joint application filed for transfer of permit in favour of Mr.N.Thangavelu Mudaliar under Section 82(1) has been pending for quite a long time, the Regional Transport Authority, knowing pretty well that Mr.N.Thangavelu Mudaliar is an interested person and has been fighting from the year 2000, in my considered view, should have been issued with a notice before effecting the transfer of permit in favour of the legal heirs of Mr.M.K.Velu. Moreover, it may not be out of context to mention that by orders dated 30.04.2004 and 3.5.2004, the Regional Transport Authority only passed orders transferring the permit in favour of Mr.N.Thangavelu Mudaliar. This also again reiterates the stand taken by Mr.N.Thangavelu Mudaliar that he is an interested person. Therefore, notice should have been issued and opportunity should have given to him. As this aspect has been properly appreciated by the Appellate Tribunal, this Court does not find any infirmity with the impugned order of remand. For all these reasons, the writ petitions fail and they are, accordingly, dismissed. Consequently, interim order stands vacated and the M.P.Nos.1 of 2009, 1 & 2 of 2010 are also dismissed. No costs."



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13. Challenging the above common order, dated 07.01.2014 passed by the learned Single Judge, in W.P.Nos.4801 and 5628 of 2010, the present Writ Appeals are filed by the appellant-N.Revathy.

14. According to the learned counsel for the appellant, the appellant/writ petitioner (N.Revathy) had already filed a suit in O.S.No.159 of 2000 before the District Munsif Court, Thiruvannamalai, (since lastly transferred to Vellore Fast Track Court to try with O.S.No.34 of 2004), which is stated to have been dismissed on 22.07.2008.

15. Further, the said M.K.Velu has earlier given consent for transfer of the permit in favour of the said S.Sivakumar. Therefore, he is aggrieved by the order passed by the Writ Court confirming the order of the RTA on the ground that an opportunity should also be granted the appellant-N.Revathy, who appeared before the RTA. Therefore, he has already relinquished his right and has given a consent to the said S.Sivakumar, who is the petitioner in W.P.Nos.26816 and 26817 of 2009, and the said S.Sivakumar is the second respondent before this Court in W.P.Nos.4801 and 5628 of 2010. Therefore, according to them, the said S.Sivakumar is not a necessary party to the proceedings before the RTA.

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16. Therefore, learned Senior Counsel appearing for the the first respondent-Thangavelu Mudaliar, has fairly stated that in view of the aforesaid stand taken by the appellant-N.Revathy and that already they have given consent in favour of the said S.Sivakumar, for transfer of the permit and that he has also relinquished his right claiming the permit for the aforesaid deceased Velu.

17. Hence, learned Senior Counsel appearing for the first respondent submitted that the statement of the appellant, be recorded and the present Writ Appeals may be disposed of and no notice is required to be issued by the RTA as against the appellant-Revathy.

18. In the light of the aforesaid submissions made by the respective learned counsel/Senior Counsel appearing for the parties, this Court clarifies that by consent of the parties concerned, it is not necessary to issue notice to the appellant/Revathy and the appeal proceedings before the RTA in Appeal Nos.69 and 59 of 2009 be proceeded with, insofar as the other parties are concerned, without giving any notice to the appellant/Revathy.



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19. The Writ Appeals are disposed of. There shall be no order as to costs.

Consequently, the miscellaneous petitions are closed.

(D.K.K.,J) (P.D.B., J)
15.06.2023

Index: Yes/no

Speaking Order: Yes/no

Neutral Citation : Yes/no
CS

To

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Thiruvannamalai District,
Thiruvannamalai.
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