



C.R.P.(MD)No.864 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 30.11.2023

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THE HON'BLE MR. JUSTICE P.B.BALAJI

C.R.P.(MD)No.864 of 2019
and
C.M.P.(MD)No.5076 of 2019

Subaitha Arulmary ... Petitioner / Petitioner /
1st Defendant

V.

1.Salomon ... 1st Respondent / 1st Respondent/
Plaintiff

2.The Regional Transport Officer,
Sankarankovil.

3.The District Collector,
Tirunelveli, Tirunelveli District.

... Respondents 2&3/ Respondents 2&3/
Defendants 2 & 3

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 01.04.2019 passed in I.A.No.1 of 2019 in O.S.No.171 of 2018, on the file of the Principal District Munsif Court, Sankarankovil.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R2 &3



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ORDER

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The first defendant, aggrieved by the dismissal of I.A.No.1 of 2019, taken out by her, to reject the plaint Order 7 Rule 11 C.P.C., is the revision petitioner herein.

2. The short question that arise for consideration in this revision is as to whether the suit as framed by the first respondent is maintainable under Section 9 of the Code of Civil Procedure, in view of the express bar under Section 94 of the Motor Vehicles Act.

3. The trial Court has dismissed the application stating that the suit has not been filed questioning the permit issue, but, only *inter-se* dispute between the plaintiff and the first defendant and therefore, the plaint cannot be rejected.

4. I have heard the learned counsel for the revision petitioner and the learned Additional Government Pleader for the respondents 2 and 3. Though the above revision has been listed on several occasions, there is no representation for the first defendant / plaintiff. In fact,



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today (ie.30.11.2023), the matter has been posted under the caption “for orders”.

5. Section 94 of the Motor Vehicles Act, 1988, reads as follows:-

“94. Bar on jurisdiction of Civil Courts.—

No Civil Court shall have jurisdiction to entertain any question relating to the grant of a permit under this Act, and no injunction in respect of any action taken or to be taken by the duly constituted authorities under this Act with regard to the grant of a permit, shall be entertained by any Civil Court.”

6. The learned counsel for the revision petitioner would place reliance on two decisions, namely, the Division Bench of the Kerala High Court in ***Malappuram District Private Bus Operators' Association V. M.P.Mohan*** reported in ***1999-SCC-Online-KER-166***, wherein the Division Bench of the Keral High Court held that Section 94 of the Motor Vehicles Act places a bar on jurisdiction of civil Courts to entertain any question relating to the grant of a permit under the Act and that the Motor Vehicles Act is a self-contained special Act



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providing rights, liabilities and remedies and that the Regional Transport Authority is the final authority for fixing the fare table and fare stages and that if there is any grievance, the affected party can file a revision under the provisions of the Act. The Division Bench of the Kerala High Court in the said decision held that the Consumer Disputes Redressal Forum did not have any jurisdiction to deal with the matter, in view of Section 94 of the Motor Vehicles Act.

7. The learned counsel for the revision petitioner would also place reliance on the decision of the Allahabad High Court in ***Omkar Singh V. Regional Transport Authority*** reported in ***1991-SC-Online-All-122***, wherein the Division Bench of the Allahabad High Court held that the Civil Courts have no jurisdiction to issue an injunction order, not only in respect of the action already taken in the matter of grant of permit, but are also prohibited to issue preventive orders in that connection. The Division Bench carved out a single exemption to the settled proposition, where the Civil Court can interfere in the matter of grant of permit is when the transport authorities, which had granted the permit or likely to grant permit are not duly and lawfully constituted.



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8. On going through the plaint, I am able to see that the relief sought for by the plaintiff is for mandatory injunction to prohibit the first defendant / revision petitioner to ply his vehicle (mini bus) and for permanent injunction to restrain the first defendant / revision petitioner from interfering with the plaintiff's right to ply his mini bus bearing Registration No.TN-49-N-0171. Route described in the schedule to the plaint, the said relief is clearly one with false within the four corners of Section 94 of M.V.Act. The issue involved in the suit is certainly an issue that is barred under Section 94 of the M.V.Act and the Section mandates that the Civil Courts shall not entertain any issue of question relating to the grant of permits under the Act and further that no injunction in respect of the same can be taken or attempted to be taken by the parties can be granted by the civil Court. On the face of it, the plaint is barred by the provision of Section 94 of the M.V.Act. The interpretation sought to be given by the trial Court to Section 94 of the Act is clearly illegal and perverse. The plaint is liable to be rejected since it is barred under Section 94 of M.V. Act and in view of the specific mandate of Section 9 of the Code of Civil Procedure, the plaintiff's remedy is not before the Civil Court.



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9. The Civil Revision Petition is allowed and order dated 01.04.2019 passed in I.A.No.1 of 2019 in O.S.No.171 of 2018, on the file of the Principal District Munsif Court, Sankarankovil is hereby set aside.

10. The learned Additional Government Pleader would bring to my notice that the vehicle has already been sold along with permit and the statement is recorded. It is open to the parties to work out their respective rights in a manner known to law. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

30.11.2023

Internet : Yes
Index:Yes/No
Neutral Citation:Yes/No
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To

- 1.The Principal District Munsif Court,
Sankarankovil.
- 2.The Regional Transport Officer,
Sankarankovil.
- 3.The District Collector,
Tirunelveli, Tirunelveli District.
- 4.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI.J.,

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