



Writ Appeal No.2657 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

RESERVED ON
20.06.2024

PRONOUNCED ON
09.07.2024

CORAM

**THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.2657 of 2022
and C.M.P.Nos.19046 & 18005 of 2022**

P.Ravikumar

... Appellant

Vs

1.S.Mahendran

2.The State Transport Appellate Tribunal,
High Court Buildings,
Chennai.

3.The Regional Transport Authority,
Tirupur Region,
Coimbatore District.

4.The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited.

...

Respondents

PRAYER:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 01.08.2022 made in W.P.No.30386 of 2008 and



Writ Appeal No.2657 of 2022

pass such further order.

For Appellant : Mr.M.Palani

For RR1 & 4 : No appearance

For R2 : Tribunal

For R3 : Mr.C.Kathiravan

Special Government Pleader

JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

This instant-Writ Appeal had been filed by a third party appellant/ Stage Carriage Operator challenging the order passed by the learned Single Judge, wherein the learned Single Judge had set aside the order passed by the second respondent herein rejecting the claim of the first respondent by holding that there is no Scheme as on force to reject the claim of the first respondent to operate.

2. Heard Mr.M.Palani, learned counsel for the appellant and Mr.C.Kathiravan, learned Special Government Pleader appearing on behalf of the third respondent.

3. In spite of notice to the first respondent/ Writ Petitioner and his



Writ Appeal No.2657 of 2022

name being printed in the cause list, there is no appearance either on his behalf or by himself.

4. It is brought to our notice that a Co-ordinate Bench of this Court in ***W.A.No.222 of 2017, dated 22.12.2022***, in which one of us was a party to the proceedings (Hon'ble Mr.Justice K.Kumaresh Babu) had already dealt with the issue particularly the order impugned herein and has held that the order impugned herein had been wrongly decided to. For better appreciation, the relevant paragraphs of the order is extracted hereunder:-

“21. The main contention that was raised by the petitioner before the Writ Court stands answered by the judgment of the Division Bench in The Regional Transport Officer, Tirupur Region and another v. R.Muthulakshmi and another ‘s case. We are also in agreement with the Division Bench as regards the sweep of the Scheme that was framed for the undivided Dharmapuri District. The Scheme that was framed in 1999 for the undivided Dharmapuri District will apply to Krishnagiri District also as the attempt made by the State Government to have a separate modified scheme for Krishnagiri District in the year 2005 did not fructify and the same was allowed to lapse. Therefore, the



scheme of the year 1999 will continue to apply to Krishnagiri District also.

22. We have to deal with the submissions of the learned Senior Counsel with regard to the subsequent developments also. If we agree with the conclusion of Hon'ble Mr.Justice N. Anand Venkatesh, in S.Mahendran's case and hold that upon introduction of the new scheme in the year 2011 vide G.O.Ms.No.136 dated 23.02.2011, the old Schemes will get effaced and they will not revive upon the new scheme being invalidated by the Court, the essential consequence would be that there will be a vacuum. We do not think that we should favour such a situation. Unfortunately, the Hon'ble Mr.Justice N. Anand Venkatesh, had proceeded on the basis that the new scheme is substituted to the old schemes and therefore, applying the law relating to substitution concluded that if the substitute is held to be invalid, the substituted will not revive. Of course both the decisions of the Hon'ble Supreme Court relied upon by Hon'ble Mr.Justice N. Anand Venkatesh, in S.Mahendran's case, support the view taken by the Hon'ble Judge.



23. *We are unable to persuade ourselves to agree with the said view, inasmuch as the new scheme brought out in the year 2011 specifically states that it is only a modification of the old Scheme and not a substitution. If it is a modification, the existing scheme is not effaced, its only tinkered with or altered a little. If the alteration of the tinkering is taken away the original as it stood before the alteration or tinkering will exist. This is akin to the difference between a repealing enactment and the amending enactment. While something that is repealed will require a statutory intervention for its revival, something that is amended will revive if the amendment is set aside.*

24. *To draw an analogy, we may refer to Section 6 of the Hindu Succession Act, which was recently amended making daughters also coparceners. Assuming that the amendment is challenged and the challenge is up held, its only the amendments introduced that would go out of the statute, the original Section would prevail. If we are to conclude that once the amendments are struck down the original provision*



Writ Appeal No.2657 of 2022

will also stand effaced, the same would lead to anomalous situation and absolute lawlessness. We therefore, conclude that 2011 scheme being a modification of the earlier schemes will not have the effect of effacing the old schemes and upon the modifications being struck down, the old schemes would stand revived. With great respect we conclude that the decision in S.Mahendran's case, is wrongly decided."

5. We do not find any reasons to differ with the view that had been arrived at by the Co-ordinate Bench of this Court. In view of the same, we are inclined to interfere with the order passed by the learned Single Judge.

6. In fine, this Writ Appeal is allowed and the order impugned order dated 01.08.2022 made in W.P.No.30386 of 2008 passed by the learned Single Judge is set aside. However, there shall be no order as to costs. Consequently, Connected miscellaneous petitions are closed.

(D.K.K.,J.) (K.B., J.)
09.07.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No



Writ Appeal No.2657 of 2022

gba
To

WEB COPY

- 1.The State Transport Appellate Tribunal,
High Court Buildings, Chennai
- 2.The Regional Transport Authority,
Tirupur Region, Coimbatore District.
- 3.The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited.



WEB COPY



Writ Appeal No.2657 of 2022

D. KRISHNAKUMAR., J.
and
K.KUMARESH BABU.,J.

gba

A Pre-delivery Judgment made in
Writ Appeal No.2657 of 2022
and C.M.P.Nos.19046 & 18005 of 2022

09.07.2024



WEB COPY



Writ Appeal No.2657 of 2022