



C.R.P.(NPD)No.3869 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.3869 of 2023

and

C.M.P.No.23886 of 2023

Kavitha Anantharamakrishnan

.. Petitioner

Vs.

1.M.Harikrishnan

2.The Regional Transport Authority,
Thiruvarur, Thiruvarur District

3.The Secretary,
Regional Transport Authority,
Thiruvarur District

4.Geetha Devadass

.. Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order in M.V.Appeal No.45 of 2022 dated 10.04.2023 passed by the Tamil Nadu State Transport Appellate Tribunal, Chennai reversing the order in R.No.2752/A5/2022, dated Nil.10.2022 passed by the 2nd respondent.



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For Petitioner : Mr.P.Vijendran

For R1 : Mr.M.Palani

For RR2 & 3 : Ms.Amritha Poongodi Dinakaran

For R4 : Served, No Appearance

ORDER

The present Civil Revision Petition arises at the instance of the objector before the Regional Transport Authority, Thiruvavarur District.

2. The undisputed facts of the case are that there was one Mahadevan who owned three buses, namely one bus bearing registration No.TN50H 0668, a spare bus bearing registration No.TN50C 5464, and a mini bus bearing registration No.TN Y 7470.

3. The bus bearing registration No.TN50H 0668 was operating between Pattukottai and Thiruthuraipoondi, and the bus bearing registration No.TNY 7470 was operating between Thiruthuraipoondi Bharathiyar Street and Pichankottagam. The Pattukottai to Thiruthuraipoondi permit was valid till 04.04.2023, the spare bus permit was valid till 06.07.2020, and the mini



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bus permit was valid till 09.11.2020.

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4. The said Mahadevan had two sons and four daughters. The 1st son of Mahadevan was one Anantharamakrishnan, who is no more. He left behind as his legal heirs, the civil revision petitioner/his wife and his two children. The 1st respondent/Harikrishnan is the 2nd son of the deceased Mahadevan. The daughters of the deceased Mahadevan are Geetha, Sumathi, Seethalakshmi and Amaravathi.

5. Mahadevan had executed a registered "WILL" on 04.01.2017. He had made provisions with respect to the permit in favour of both his sons. Subsequently, Anantharamakrishnan passed away by committing suicide on 24.07.2017. On the death of his 1st son/Anantharamakrishnan, the 1st respondent/Harikrishnan claims that Mahadevan executed another "WILL" on 22.12.2018. He pleads, by virtue of the second "WILL", what was bequeathed under the 1st "WILL" stood cancelled. Mahadevan passed away on 04.01.2021 leaving behind the aforesaid persons. It is not in dispute that the civil revision petitioner/Kavitha, Anantharamakrishnan and her two children, being the legal heirs of Mahadevan's predeceased son, would be



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covered under Class 1 of the Hindu Succession Act. On the death of Mahadevan, if not for the "WILL" dated 22.12.2018, all the aforesaid persons would have been entitled to make an application for the transfer of permit in favour of any one of them with the consent of the others.

6. Due to Covid - 19 pandemic, Mahadevan did not take any steps to renew the permit. It is not too far fetched to see that because of Covid - 19, the entire country came to a grinding halt, and so did the transport services in the State. On the death of Mahadevan, which occurred during the height of pandemic, Harikrishnan made an application for transfer of the permit, which stood in the name of Mahadevan, to his name.

7. The foundation for this application is the 2nd "WILL" dated 22.12.2018. The Regional Transport Authority at Thiruvavur returned the application, stating that the relevant documents that are necessary to be submitted in terms of Rule 214 of the Tamil Nadu Motor Vehicles Rules, 1989, had not been enclosed. Therefore, he directed the 1st respondent to resubmit the application with the documents as found under the said Rule.



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8. Consequent to this return of the application, a Writ Petition came to be filed before this Court in W.P.No.12471 of 2022, praying for a direction to direct the 2nd respondent therein/ Regional Transport Authority to consider the representation made by the 1st respondent herein/Harikrishnan. The said Writ Petition was ordered on 11.05.2022 directing the Regional Transport Authority to consider the application for transfer of permit as well as for the extension of the same.

9. By an order dated 28.09.2022, the application made by Harikrishnan was rejected by the Regional Transport Authority stating that it does not comply with the terms of Rule 214 of the Tamil Nadu Motor Vehicles Rules read with Section 82 of the Motor Vehicles Act, 1988. It is on record that one Geetha/daughter of the deceased Mahadevan, along with the civil revision petitioner, had objected to the transfer of permit and renewal, and consequently, the same was rejected.

10. Aggrieved by the said order, an appeal was preferred before the State Transport Appellate Tribunal. This appeal was received in



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M.V.A.No.45 of 2022. By an order dated 10.04.2023, the said appeal was allowed, and a direction was given to the Regional Transport Authority to transfer the permit in favour of the 1st respondent herein/Harikrishnan and also to renew the same. Against which the present Civil Revision Petition.

11. Heard Mr.P.Vijendran, appearing on behalf of the civil revision petitioner, Mr.M.Palani, appearing on behalf of the 1st respondent, and Ms.Amirtha Poongodi Dinakaran, appearing on behalf of the 2nd and 3rd respondents.

12. Though one Geetha Devadass/another objector, was made a party to the proceeding and she had been served, she has neither entered an appearance before this Court, nor is she present in-person to oppose this revision.

13. Mr.P.Vijendran would submit that there is no dispute that the civil revision petitioner is one of the legal heirs of the deceased Mahadevan. He would submit that the transfer of permit must be strictly in accordance with Section 82 of the Motor Vehicles Act, read with Rule 214 of the Tamil



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Nadu Motor Vehicles Rules, and in case, there is non-compliance with the said provisions, the authority has no other option than to reject the same. He would point out that the "WILL", dated 22.12.2018, cannot be proved before the Regional Transport Authority or before the State Transport Appellate Tribunal, and therefore, no reliance can be placed upon the same. He would point out that Mahadevan had executed a registered "WILL" on 04.01.2017 bequeathing the property to both Anantharamakrishnan as well as Harikrishnan, and ignoring the same, the Tribunal allowed the appeal. Therefore, he would seek for the order to be set aside and would seek for the restoration of the order passed by the Regional Transport Authority.

14. Per contra, Mr.M.Palani would bring to the notice of this Court that the civil revision petitioner/Kavitha Anantharamakrishnan had preferred another revision against the very same order passed in C.R.P.No.4055 of 2023, and had withdrawn the same on 21.11.2023, and therefore, she is not entitled to proceed with the present revision. Placing reliance upon the judgment of this Court in W.P.No.27350 of 2021, dated 06.01.2022, he would submit that since the 1st respondent had projected the "WILL" and by virtue of that "WILL", he succeeds to the estate, the order of



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the Tribunal need not be interfered with, and it is justified.

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15. He would further point out that by virtue of the impugned order before this Court, the permit has been renewed, and the bus is now currently plying between Thiruthuraipoondi and Pattukottai. He would state that in the light of the subsequent events, there is no necessity to interfere with the impugned order, and he would seek for the dismissal of this revision.

16. Ms.Amrita Poongudi Dinakaran would submit that the Regional Transport Authority will abide by any direction that would be given by this Court in the revision.

17. I have carefully considered the submissions on all the sides and I have carefully gone through the records.

18. There is no dispute that the deceased Mahadevan was a very wealthy person. The relationship between the parties, namely the 1st respondent is the brother-in-law of the civil revision petitioner and that Mahadevan had four other children including the 4th respondent, is admitted.



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The point that I have to consider is that whether the State Transport Appellate Tribunal was justified in placing reliance upon the "WILL", and allowing the appeal.

19. A "WILL" is written in order to interfere with the natural course of succession. If not for the "WILL" dated 04.01.2017 and 22.12.2018, all the legal heirs of the deceased Mahadevan would be entitled to succeed to his estate. The civil revision petitioner does not dispute the "WILL" dated 04.01.2017, under which Mahadevan had bequeathed his estate in favour of his sons/Anantharamakrishnan and Harikrishnan. This "WILL" too, I must point out, has not been proved before the Court.

20. Insofar as the "WILL", dated 22.11.2018, is concerned, it is an unregistered "WILL". The reasons that have been given for writing the same is an alleged note that is said to have been written by the deceased Anantharamakrishnan making allegations against his father. Be that as it may, it becomes irrelevant for me to deal with any of those issues as they will have to be decided in a properly instituted civil proceedings.



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21. Suffice it to state, I am in agreement with the submissions of Mr.P.Vijendran that neither the Regional Transport Authority nor the State Transport Appellate Tribunal are competent to deal with the genuineness of a "WILL". The "WILL", having been written dealing with the properties outside the presidency town, the question of probate does not arise. For a "WILL" written outside the presidency town filing an order of a probate by a Hindu is only optional. However, when a person stakes a claim to a property on the basis of a testament and that testament being denied in terms of Section 34 of the Specific Relief Act, it gives a cause of action for the person staking a claim on the basis of the "WILL" to institute a suit before the competent civil Court seeking for declaration of title with respect to the properties bequeathed to him under the "WILL".

22. It is here that I have to refer to the judgment relied upon by Mr.M.Palani in W.P.No.27350 of 2021 dated 06.01.2022. In the said judgment, this Court had come to the conclusion on the special circumstances of that case that there is a presumption that a "WILL"



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executed is deemed to be true, unless and until the contrary is proved by the legatee or the beneficiary. The proposition laid down by the learned Judge revolves around the special circumstances that existed in that case. The "WILL" had been executed by one Dhanabakkiammal, who was the 1st wife of the father of the writ petitioner, namely one D.Naveen Kumar. She was the permit holder, and she had executed a "WILL" in favour of the writ petitioner. It was in those circumstances, the Court had come to the conclusion that Rule 214 of the Tamil Nadu Motor Vehicle Rules need not be strictly enforced in the light of the "WILL". However, it is not a precedent for the proposition that the Regional Transport Authority or the State Transport Appellate Tribunal can rely upon the "WILL" dehors the rules, and transfer the permit under Section 82 of the Act read with the aforesaid Rule in favour of a person staking a claim on the basis of the "WILL". This is clear from the observations made by the learned Judge in Paragraph No.18 of the said judgment.

23. He pointed out in the said judgment that the question of filing the legal heirship certificate does not arise, since there existed a "WILL". But the situation before us is not a dispute between the children of the deceased



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testator alone. The deceased testator, apart from the 1st respondent herein, had left behind his four daughters and two grandsons through the deceased son and daughter-in-law.

24. It is here that I have to refer to Rule 214 of the Tamil Nadu Motor Vehicles Rules. The Rule is reads as follows :

“214. Transfer of permit on death of permit holder - (1) An application for the transfer of permit under sub-section (3) of section 82 shall be accompanied by the fee specified in the Table under rule 279 together with the certificate of death of the permit holder issued by the competent authority a heirship certificate Issued by an officer of the revenue department not below the rank of a Tahsildar and "No objection Certificate" from all the legal heirs other than the applicant, if there are more than one legal heir to the deceased permit holder. If in such cases, the permit has been endorsed or extended under the provisions of these rules, the endorsement or extension shall cease to have effect on the date of transfer unless the Transport Authority which granted the endorsement or extension directs that it shall be continued,

If the Transport Authority allows the transfer of the permit it shall call upon the applicant to produce, within four months from the date of receipt of the order sanctioning the transfer, the certificate of registration of the vehicle with the particulars of the transfer of ownership of the vehicle stated thereon together with valid certificate of fitness and proof for the payment of the current tax under the Tamil Nadu Motor Vehicles Taxation Act, 1974 (Tamil Nadu Act 13 of 1974) and the permit. In the event of the applicant failing to produce the relevant records within the period of four months aforesaid, the transport authority shall revoke the sanction.

The Transport Authority may delegate the power conferred upon it under sub-rule (2) to its Secretary in



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cases where the Secretary has sanctioned the transfer of permit.

The powers referred to in sub-rule (2) shall also be exercisable by the appellate or revisional authority, as the case may be, if the transfer of permit is allowed by such authority."

25. Any application for transfer of a permit on the death of the permit holder would be covered under the said Rule. A bare reading of the Rule shows that it must be accompanied by

- (i) a certificate of the death of the permit holder;
- (ii) the legal heirship certificate issued by an officer not less than the rank of the Tahsildhar, and
- (iii) "No Objection Certificate" from all the legal heirs other than the applicant.

26. A reading of the order of the Regional Transport Authority impugned before the State Transport Appellate Tribunal shows that while the 1st respondent was successful in obtaining "No Objection" from three of the remaining six legal heirs, he was not able to obtain the "No Objection Certificate" as required by the Rule from the civil revision petitioner and from one Geetha Devadoss/the 4th respondent. It is too well settled, but I



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must reiterate that if a particular mode is ordered by the statute, the authority transferring the permit has to stick to that mode without any variation. Therefore, the order of the Regional Transport Authority that since all the legal heirs had not given "No Objection Certificate" in favour of the 1st respondent, he is not entitled to transfer of the permit cannot be found fault with.

27. The order of the State Transport Appellate Tribunal, which states that since the 1st respondent has projected a "WILL" and therefore, he is entitled to succeed is contrary to the settled positions of law. A "WILL" necessarily has to be proved in accordance with law, and unless and until it is proved, the legatee would have to produce a "No Objection Certificate" from the other legal heirs. Rule 214 does not brook any exception that in case, a "WILL"/testament exists "No Objection Certificate" is not necessary from the other heirs. As I have already pointed out that a "WILL" interferes with the natural line of succession, and Rule 214 demands a No Objection Certificate, only because all the legal heirs would be entitled to a share in the estate of the deceased.



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28. At this stage, Mr.M.Palani would submit that since he is in possession of the bus, no error can be found with the order of the State Transport Appellate Tribunal, since it satisfies the requirement of Section 82(2) of the Motor Vehicles Act. In terms of Section 82(2) of the said Act, a person succeeding to the possession of a permit is permitted to exploit the permit for a further period of three months, provided he makes an application under Section 82(3) of the said Act within the said period. It is pertinent to point out here that Section 82 of the Motor Vehicles Act has to be read with Rule 214 of the Tamil Nadu Motor Vehicles Rules. This is because, the manner of disposal of the application under Section 82(3) of the said Act is dealt with under the said Rule. The word "person", though used in singular, would also include plural. This is by virtue of the General Clauses Act. On the death of Mahadevan, all his legal heirs are legally entitled to succeed to the estate. This is because, title cannot be in vacuum. If there were only one legal heir, then I would have readily accepted the argument of Mr.M.Palani that he succeeds to the possession of the bus.

29. Reading the Section 82(3) of the Motor Vehicles Act along with Rule 214 of the Tamil Nadu Motor Vehicles Rules which demands "No



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"Objection" implies that the possession is not merely physical possession but it also deals with legal possession of the property. If I were to consider legal possession, then every legal heir would be entitled to the same. Since permit cannot be given in the name of more than one person, the Rule contemplates that a "No Objection" be given by the others. If the argument of Mr.M.Palani were to be accepted, then if more than one legal heir/representative is available for the deceased, the heir in physical possession of the vehicle would state that he succeeds to the possession of the vehicle, and consequently, would be entitled to exclude the others from the participation in the benefits of the estate.

30. That cannot be an interpretation which is in sync with Rule 214 of the Tamil Nadu Motor Vehicles Rules. I would interpret Section 82(3) of the Motor Vehicles Act to imply that if a person succeeds to the possession of the vehicle with the consent of other legal heirs, then he is entitled to have the permit transferred to his name. Such an interpretation would not only be in accordance with the Motor Vehicles Act but also in accordance with the principles governed by the Hindu Succession Act and the other personal laws relating to succession. In case, if I were to accept



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Mr.M.Palani's case, then by virtue of the fact that a person is in physical possession of the bus, he could continue to operate the same by getting a transfer of permit de hors Rule 214 of the Tamil Nadu Motor Vehicles Rules. I am not willing to accept the said submission.

31. On the death of the permit holder, as pointed out above, every legal heir succeeds to the estate, and by virtue of the "No objection" granted in favour of any one amongst them, they waive their right in favour of that family member. The reasons for such waiver are irrelevant, because it will be depending upon the facts and circumstances of each case. The arrangement that the person making the application reaches with the other members of the family depends on facts of each case. Maybe the "No objection" would be given for a consideration or free from such consideration, say, out of natural love and affection. Even in the later situation, the consideration would of course, be love and natural affection. In light of the above discussion, I am unable to sustain the impugned order.

32. Mr.M.Palani would also rely upon the judgment made in W.P.No.9633 of 1984, dated 11.04.1985, to substantiate the plea that one



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legal heir is entitled to continue exploiting the permit even pending a suit.

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33. Careful perusal of the facts in W.P.No.9633 of 1984 would show that the bus had been operated by a joint family member, and a suit for partition had been instituted by one brother against the others. In case of the joint family acquisition, every co-parcener will have a right over the property, and they get that right not by the death of a person, but by the virtue of being born into the family. One co-parcener operating the business of the joint family operates it on behalf of all others. However, the principle of joint family business cannot be extended to the present facts of the case, because it is not in dispute that the buses were procured and being operated under permits by Mahadevan out of his self acquisition. The situation of the joint family property does not arise in the present case. Therefore, the judgment rendered by *Hon'ble Mr.Justice Ratnam* in W.P.No.9633 of 1984 is clearly distinguishable.

34. I have to take note of the subsequent events that have taken place pursuant to the order of the State Transport Appellate Tribunal dated



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10.04.2023. The fact that the 1st respondent/Harikrishnan was benefited with the transfer of permit and extension thereof is not in dispute. It is also not in dispute that the vehicle is currently plying between Thiruthuraipoondi and Pattukottai. If I were to allow the revision and set aside the order, it would have the effect of bringing the vehicle to a grinding halt. This would not be the interest of the family, because if the motor vehicle is standing idle, it would only result in more expenses being spent on it rather than being a source of income.

35. Furthermore, as pointed out by *Hon'ble Mr.Justice Ratnam* in W.P.No.9633 of 1984 dated 11.04.1985, it will also affect the convenience of the general public who are all utilizing the vehicle to travel from one point to another. An additional fact that I have to take note is that the civil revision petitioner is a young widow having two children. In the light of the special circumstance which exists in the facts of this case, I requested Mr.M.Palani to find out from his client whether he is willing to pay some amount as maintenance towards his sister-in-law and his brother's children. Mr.M.Palani was able to convince his client, and he has filed an affidavit stating that the 1st respondent would pay a sum of Rs.10,000/- per month to



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the civil revision petitioner and her two children on or before 10th of every succeeding month to the bank account of the civil revision petitioner/Kavitha Anantharamakrishnan. The details of her bank account are as follows :

Account Number : 829910110003495

Bank and Branch : Bank of India, Ariyamangalam Branch, Trichy

IFSC : BKID0008299

36. The affidavit filed by the 1st respondent is taken on record, and this Court places its appreciation for the efforts taken by Mr.M.Palani in convincing his client to pay the amount to the civil revision petitioner and her children.

37. Having set aside the order, there remains a legal issue which is yet to be resolved. As pointed out above, the entire case revolves upon the unregistered "WILL" of the deceased Mahadevan dated 22.12.2018. This "WILL" would necessarily have to be proved before the Court. Therefore, the 1st respondent is permitted to operate his vehicle for which he has obtained a permit pursuant to the order, dated 10.04.2023, on the following



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conditions:

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(1) He shall present the suit for declaration of title on the basis of the "WILL", dated 22.12.2018, within the period of three months from the date of receipt of a copy of this order.

(2) He shall be permitted to exploit the permit on the condition that he continues to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the civil revision petitioner and her children till the disposal of the suit.

38. I hasten to add here that this amount of Rs.10,000/- is fixed taking into consideration the existing circumstances and in case, the suit were to go in favour of the civil revision petitioner and against the 1st respondent, it is always open to the civil revision petitioner to seek appropriate reliefs on the basis of the decree that is passed in the suit. This arrangement will continue till the disposal of the civil proceeding.

39. It is needless to state that in case, if the title suit is decreed, the 1st respondent would become the owner of the property, and therefore, the question of paying maintenance to the civil revision petitioner and her



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children would not arise.

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40. There is yet another issue, though it is not directly covered by this revision that I have to address. During the course of arguments, it has come to the light that Anantharamakrishnan/the deceased husband of the civil revision petitioner was a permit holder of the mini bus bearing Registration No.TN A 7756. On his death in the year 2017, an application seems to have been made in the name of the civil revision petitioner seeking transfer of permit. The said application was rejected and it has not been challenged before the Tribunal. In terms of Section 89(a) of the Motor Vehicles Act, if an application is made by a person for the grant of a permit and it is rejected, his remedy is to file an appeal before the State Transport Appellate Tribunal. It is a clear and categorical statement of Mr.P.Vijendran that Kavitha Anantharamakrishnan never made such an application for the transfer of permit. Therefore, the bar under Section 89 of the Motor Vehicles Act to file an appeal against the order, dated 28.09.2022, would have arisen. If she had made the application, and the same had been rejected.



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41. At this stage, Mr.M.Palani would point out that insofar as the bus bearing registration No.TN A 7756 is concerned, it is only a mini bus which operates to a distance of 20 Kms. Out of this 20 Kms, 4 Kms are served sectors and the remaining 16 Kms are the unserved sectors. He would point out that there is a cap of 250 mini bus permits to be granted in any district. Under the provision of Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992 [Act 41 of 1992], which is the special legislature that applies to the State of Tamil nadu, no new permit can be granted in terms of Section 6(4) of the said Act. This bar, however, does not operate for mini bus permit. Therefore, it is open to Kavitha Anantharamakrishnan to file a fresh application for the grant of a new mini bus permit to operate the bus bearing registration No.TN A 7756. If she files such an application, the Regional Transport Authority shall consider the same in accordance with law.

42. With the above observations, the Civil Revision Petition stands disposed of. Consequently, connected Civil Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order :Yes/No



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Neutral Citation: Yes/No

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V. LAKSHMINARAYANAN, J.

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To

- 1.The Tamil Nadu State Transport Appellate Tribunal,
Chennai
- 2.The Regional Transport Authority,
Thiruvavur, Thiruvavur District

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