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C.R.P.(NPD).No.712 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD).No.712 of 2023 &
C.M.P.Nos.5556 & 5558 of 2023

SVS Ramesh Kumar

... Petitioner

-Versus-

1.M.Sivaji

2.The Regional Transport Authority,
Pudukottai.

3.M/s.Amirtha Auto Finance,
No.73/1, Covai Main Road,
Karur

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the order dated 31.10.2022 in M.V.A.No.14 of 2022 and set aside the same in so far as it relates to the setting aside of the transfer of permit in favour of the petitioner herein.

For Petitioner : *Mr.AR.L.Sundaresan, for*
Mr.L.Palani Muthu

For Respondent 2 : *Ms.Amritha Dinakaran,*
Government Advocate

For Respondents : *No appearance*
1 & 3



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ORDER

This civil revision petition arises against the order passed by the State Transport Appellate Tribunal at Chennai in M.V.A.No.14 of 2022 & I.A.No.18 of 2022 in M.V.A.No.14 of 2022 dated 31.10.2022.

2. This case has a previous history. The first respondent M.Sivaji applied for a permit for plying a bus bearing registration No.TN55 K 5583 from Kalamavur Gate to Peravoorani. He was granted permit by the Regional Transport Authority, Pudukottai with validity up to 14.01.2011. Subsequently, as he had to go abroad, he appointed his cousin one Nagaraj to take care of the bus and running thereof. The said Nagaraj did not perform the duties allotted to him which resulted in loss. At the request of one S.V.S.Ramesh Kumar, the civil revision petitioner, and his father who stated that they would assist the first respondent to get over the loss, a joint application was made on 26.06.2006 to transfer the stage carriage permit standing in the name of the first respondent to the name of S.V.S.Ramesh Kumar.

3. The first respondent would further allege that he came to know that



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the intention of S.V.S.Ramesh Kumar was not honest and therefore, he gave a letter dated 16.01.2007 withdrawing the joint transfer application made on 26.06.2006. A few months later, the Regional Transport Authority, Pudukottai, ignoring the letter of the first respondent dated 16.01.2007, passed an order on 21.05.2007 transferring the permit to the name of the civil revision petitioner/S.V.S.Ramesh Kumar.

4. Challenging the order of transfer of permit, an appeal was filed before the State Transport Appellate Authority in Motor Vehicle Appeal No.68 of 2007. The said appeal came to be dismissed against which the first respondent filed a writ petition in W.P.No.24563 of 2008.

5. One Nalla Thambi had also made an objection stating that the permit should not be transferred to the name of S.V.S.Ramesh Kumar and he moved a writ petition in W.P.No.958 of 2009.

6. The civil revision petitioner S.V.S.Ramesh Kumar also filed a writ petition before the Madurai Bench of this Court in W.P.(MD).No.3694 of 2007.



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7. The writ petition filed in Madurai was clubbed along with the two writ petitions filed in Chennai and disposed of by a common order on 23.02.2010.

8. By this order, the learned Single Judge upheld the transfer of permit in favour of S.V.S.Ramesh Kumar and ordered his writ petition namely W.P.(MD).No.3694 of 2007, and dismissed the writ petition filed by P.Sivaji, the first respondent and that filed by R.Nalla Thambi. P.Sivaji, the first respondent preferred two writ appeals against the said order. They were taken on file in W.A.Nos.547 and 548 of 2010.

9. After hearing the appellant, M.Sivaji and the civil revision petitioner/S.V.S.Ramesh Kumar, who was the third respondent therein, this court allowed the writ appeal on 18.10.2011. The Division Bench came to the clear and categorical conclusion that the order transferring the permit on 25.01.2007 was made subsequently to project the case as if the permit had been transferred long ago. It held the order dated 28.06.2006, whereby the permit was transferred to the name of S.V.S.Ramesh Kumar, as a mere file order and would not confer any rights on him. Having arrived at these findings, the writ



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appeals were allowed. The orders passed in the writ petitions were set aside.

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10. Aggrieved by the order in the writ appeals, S.V.S.Ramesh Kumar preferred two special leave petitions to the Supreme Court of India in SLP(c).Nos.6805-6806 of 2012. The Special Leave Petitions were taken up for hearing on 05.05.2014, and after some arguments were made on the merits of the case, the learned counsel for the petitioner withdrew the petitions with liberty to move before the competent authority. Thereafter, S.V.S.Ramesh Kumar is said to have made an application before the Regional Transport Authority at Pudukottai.

11. In the meantime, since the permit had expired, M.Sivaji also made an application for renewal of permit on 25.03.2021. Both the applications were received by the Regional Transport Authority and were taken up for consideration together. The application seeking renewal of the permit filed by M.Sivaji was rejected on account of the fact that financier of M.Sivaji namely M/s.Amirtha Auto Finance, Karur District filed an objection stating that the loan towards the stage carriage remains unpaid and outstanding.



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12. Applying Sections 71(3)(d)(i) and 71(3)(d)(ii) of the Motor Vehicles Act, the Regional Transport Officer came to the conclusion that the application for renewal of permit has not shown financial stability and therefore, rejected that petition. While allowing the petition filed by S.V.S.Ramesh Kumar without stating any reason as to why she is granting the permit to S.V.S.Ramesh Kumar, i.e., by an unreasoned order, she directed the transfer of permit of the vehicle bearing registration No.TN55 K 5583 from the name of M.Sivaji to the name of S.V.S.Ramesh Kumar. This was in terms of Section 82 of the Motor Vehicles Act.

13. Challenging the same, M.Sivaji preferred M.V.A.No.14 of 2024. In this appeal, he challenged both the rejection of his application for extension of period under the permit as well as the permit granted in the name of S.V.S.Ramesh Kumar.

14. Learned State Transport Appellate Tribunal allowed the appeal on 31.10.2022 and hence, this revision.

15. Heard Mr.AR.L.Sundaresan for the petitioner and Ms.Amritha



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Dinakaran for the State respondent.

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16. The first and third respondents though served, neither entered appearance through the counsel nor had they appeared in person opposing the revision.

17. Mr.AR.L.Sundaresan would submit that as the Supreme Court had granted liberty to the Civil Revision Petitioner, he invoked the said liberty and approached the Regional Transport Authority and therefore, no exception can be taken to the order passed by the said authority. He would state that the order of the State Transport Appellate Tribunal requires interference as it has failed to consider the liberty granted by the Supreme Court.

18. Ms.Amritha Dinakaran would submit that the department would abide by any orders that may be passed by this Court in this revision.

19. The narration of the aforesaid facts would show that a joint application had been made by S.V.S.Ramesh Kumar and M.Sivaji seeking transfer of permit from the name of the latter to the name of the former. Before



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the transfer was sanctioned, M.Sivaji filed an application seeking withdrawal of the joint application. I am not concerned with the reasons for which the application for withdrawal was made, but it is on record that the application had in fact been communicated to the Regional Transport Authority. In terms of Rule 206 of the Tamil Nadu Motor Vehicle Rules, if either or both the parties in a joint application for transfer, seek withdrawal of the same, it is the duty of the Regional Transport Authority to drop further proceedings. Instead of dropping the proceedings, the authority took a stand that permit had been granted as early as on 28.06.2006. This was put in challenge before the High Court in a writ proceeding.

20. The petitioner succeeded in the case originally. But on appeal, the order of the learned Single Judge as well as the orders on the basis of which the transfer was made in favour of S.V.S.Ramesh Kumar were set aside. Before the Supreme Court, the civil revision petitioner withdrew his application. No doubt, it is stated that the withdrawal of the Special Leave Petition will not stand in the way of the petitioner to approach the authorities under the Motor Vehicles Act.



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20. However, this liberty cannot be construed as giving a right to the civil revision petitioner to renew his application, which had already been dismissed at the stage of writ appeal. The learned State Transport Appellate Tribunal rightly came to the conclusion that the transfer of permit granted on 25.01.2007 having been set aside, the Regional Transport Officer without reference to the same had allowed the transfer of permit on 04.04.2022.

21. For the mere fact that the liberty was granted does not mean the order of the Division Bench was set aside by the Supreme Court. A conditional withdrawal does not improve the case of the petitioner. The order dated 04.04.2022 ignoring the order passed in W.A.No.547 & 548 of 2010 had rightly been set aside by the State Transport Appellate Tribunal in the impugned order.

22. Therefore, in the light of the above discussion, I do not find any reason to interfere with the order of the State Transport Appellate Tribunal. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.



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23. At this stage, Mr.AR.L.Sundaresan submitted that he has been instructed to inform the court that the civil revision petitioner had paid a sum of Rs.1,08,00,000/- for the purpose of getting the permit transferred in his name. It was only after the payment of the said amount, the joint application itself had been submitted to the authority.

24. In this revision, I have only dealt with the legality of the order passed by the State Transport Appellate Tribunal in setting aside the order of the Regional Transport Authority, Pudukottai. I cannot deal with the civil liabilities that might arise between the parties. It is for them to workout their rights independently in the manner known to law.

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order



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V.LAKSHMINARAYANAN, J.

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