



REV.APLW(MD)No.177 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.10.2024

CORAM :

THE HON'BLE MRS.JUSTICE S.SRIMATHY

REV.APLW(MD) No.177 of 2023

and

W.M.P.(MD)Nos.18445 and 18446 of 2023

K.Prabakara Kannan

.. Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office,
Palani, Dindigul District.

2.V.Thangarasu

.. Respondents

Memorandum of Grounds of Review Application under Section 114 read with Order 47 with Rule 1 of C.P.C., to review the order dated 28.07.2023 made in W.P. (MD)No.16957 of 2023.

For Petitioner

:: Mr.A.C.Asaithambi

For R1

:: Mr.M.Muthimanikkam

Government Advocate

For R2

:: Mr.J.Senthil Kumaraiah



ORDER

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The review application is filed by the third party challenging the order dated 28.07.2023 passed in W.P.(MD)No.16957 of 2023.

2. The 2nd respondent herein had filed the writ petition in W.P.(MD)No.16957 of 2023 inter alia praying for issuance of a writ of Certiorarified Mandamus, to quash the impugned returned slip, dated 26.06.2023, as illegal and consequently, to direct the respondent to reconsider the petitioner's application, dated 26.06.2023, after giving sufficient opportunity of hearing to the petitioner and to replace the petitioner's existing mini bus bearing Registration No. TN 57 U 1009 permit stage carrier plying as on the route from R.R.Mills to Piluyampatti service by the proposed vehicle bearing Registration No. TN 31 H 1465.

3. After considering the plea, this Court held that the said slip cannot be returned and the same ought to be considered on merits, hence this Court directed the respondent therein to consider the application submitted by the writ petitioner, after giving sufficient opportunity within a period of three weeks. Aggrieved over the said order, the review applicant being a 3rd party has filed the present review application.



4. The transaction between the review applicant and the writ petitioner is that the writ petitioner Thangarasu is the owner of the bus and he had let the bus for lease to one A.K.M.Bala Subramani, who in turn had let sub lease to the review applicant K.Prabhakara Kannan.

5. The contention of the 2nd respondent herein Thangarsu is that he is the owner of the bus. A.K.M.Bala Subramani and K.Prabhakara Kannan had entered into agreement for sale of bus and fixed the sale consideration as Rs.19,50,000/- and K.Prabhakara Kannan had paid Rs.7,40,000/- as advance amount but subsequently sale was not concluded. Thereafter, Rs.7,40,000/- was returned by K.Prabhakara Kannan to A.K.M.Bala Subramani.

6. This Court is of the considered opinion when Thangarasu is the owner of the bus, the transaction between A.K.M.Bala Subramani and K.Prabhakara Kannan *prima facie* seems to be illegal. Therefore, this Court is not inclined to entertain the present review application.

7. The learned Counsel appearing for the 2nd respondent herein produced the order of the Regional Transport Officer, dated 01.02.2024, wherein the Regional



Transport Officer has given notice to the K.Prabhakara Kannan and the said K.Prabhakara Kannan has also appeared before the party on 23.11.2023 and participated in the enquiry proceedings. The opportunity was granted to K.Prabhakara Kannan based on the interim order passed by this Court in the review application.

8. Therefore, this Court is not inclined to entertain the plea of K.Prabhakara Kannan that he had incurred loss in the said transaction and he had paid tax, insurance and other expenses to the tune of Rs.5,50,000/-. Under Article 226 of the Constitution of India, this Court cannot peruse the evidence. Therefore, the plea of the review applicant cannot be entertained. Hence, the review application is liable to be dismissed.

9. The learned Counsel appearing for the review applicant submitted that an observation may be granted to work out the remedy as per law for any civil claim. This Court is not inclined to give any liberty nor restraining the review applicant. If such right is available to the review applicant, he may invoke the said provision and seek such relief. The said Thangarasu and any other person are entitled to any defense available to them as per law.



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10. With the above said observations, the review application is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : yes/no

18.10.2024

Neutral citation : yes/no

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To

The Regional Transport Officer,
Regional Transport Office,
Palani, Dindigul District.



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S.SRIMATHY,J.

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