



CRP(MD)No.39 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated:22/03/2024

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The Hon'ble Mr.Justice **G.ILANGOVAN**

CRP (MD) No.39 of 2024
and
CMP (MD) No.249 of 2024

S.Hariharan : Petitioner/Appellant
Vs.
1.The Regional Transport Authority,
Tenkasi District,
Tenkasi-627 811.
2.Tmt.Valli
3.Tmt.Subbulakshmi
4.Tmt.Indira
5.S.Kandasamy @ Srikanth : Respondents/Respondents

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order, dated 09/10/2023 made in M.V Appeal No.15 of 2023 on the file of the Tamil Nadu State Transport Appellate Tribunal, Chennai, confirming the order of the 1st Respondent made in Proceedings in R.No.7321/A3/2022, dated 31/01/2023.

For Petitioner : Mr.A.C.Asaithambi
For 1st Respondent : Mr.J.Ashok
Additional Government Pleader
For R2 to R5 : No appearance



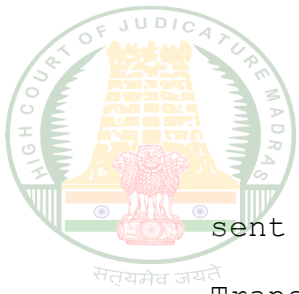
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O R D E R

WEB COPY This civil revision petition has been filed seeking to set aside the order, dated 09/10/2023 made in M.V Appeal No.15 of 2023 on the file of the Tamil Nadu State Transport Appellate Tribunal, Chennai, confirming the order of the 1st Respondent made in Proceedings in R.No. 7321/A3/2022, dated 31/01/2023.

2.The facts in brief:-

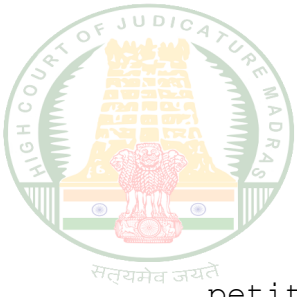
The vehicle bearing registration No.TN-76-D-4510 was originally standing in the name of the father of the petitioner and the private respondents namely Sangaralingam. He was the original permit holder. He died on 28/01/2021. After the death of the original permit holder, the petitioner submitted a letter intimating the death and transfer of permit in his name. But it came to notice of the competent authority that the tax liability to be paid was not paid in time. In spite of explanation sought, it was not submitted in time. So the Transport Authority namely the Regional Transport Officer Cancelled the permit with effect from 30/09/2022. Against that cancellation order, the petitioner filed appeal in MV No. 44 of 2022 before the Tribunal namely the State Transport Appellate Tribunal, Chennai and the appeal was allowed, by order, dated 23/12/2022. Thereafter, the petitioner



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sent a representation, dated 21/12/2022 to the Regional Transport Officer, Tenkasi, to transfer the permit in his name. Along with his request, he submitted NOC from Tmt.S.Valli, wife of the deceased permit holder and Tmt.R.Subbulakshmi, daughter of the permit holder. Notice was sent to all the legal heirs by the competent authority. Notice was served upon all the legal heirs. In the meantime, RTO, Tenkasi called a report of the Inspection from the Motor Vehicle Inspector, Grade 1, Tenkasi. He submitted a report, on 11/01/2023 stating that the vehicle is in possession of the petitioner and the vehicle was garaged at Maharaja Nagar, Kuthukalvalasai IT, Maharaja Nagar, Tenkasi. All the legal heirs appeared before the competent authority. Only the 5th respondent made objection that he is running the vehicle and no other source of income and permit must be transferred in his name. The other legal heirs namely Valli and Subbulakshmi gave consent. The 4th respondent namely Indira has also made objection. The competent authority rejected the request, by order, dated 31/01/2023. Challenging the rejection order, MV Appeal No.15 of 2023 was preferred by the petitioner before the State Appellate Tribunal, Chennai. After hearing both sides, the Appellate Tribunal dismissed the petition by the impugned order, dated 09/10/2023.



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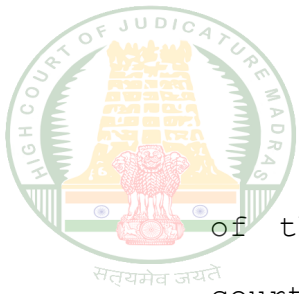
3. Aggrieved over the same, this civil revision petition is preferred.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the 1st respondent. Other respondents, even though served, failed to appear. None also appeared on their behalf.

5. Only a short point arises for consideration in this revision.

6. There are rival claimants, one by the petitioner and other by the 5th respondent. The 4th respondent, even though got objection, she has not chosen to contest the matter over the transfer of the permit. Even though, the 5th respondent contested the matter before the tribunal, he has not chosen to appear before this court in spite of receipt of notice. So, the objection raised by him before the appellate tribunal as well as the competent authority now available on record and that can be considered.

7. The learned counsel appearing for the petitioner would submit that no doubt, there is an issue between himself and the 5th respondent over the ownership; Share



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of the parties can be decided only by a proper civil court. But till the disposal of the civil process, whether it must be permissible or desirable to keep the vehicle idle without running is a sole question, which arises for consideration in this matter.

8.The learned counsel appearing for the petitioner would draw the attention of this court, to various orders passed by this court by taking into account the desirability of keeping the vehicle idle. A consistent view has taken by this court and other courts as a stopgap arrangement, permit may be ordered to be issued in favour of any one the legal heirs, leaving the parties to work out their share by way of properly taking a civil action.

9.The earlier order available on the subject in WP No.9633 of 1980, dated 11/04/1985 runs like this:-

"...Thus on a consideration of the rights of parties as they stand at present and the need to preserve and protect the buses and permits and above all, to minimise the inconvenience that is likely to be caused to the travelling public, the ends of justice require that the permits should be



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immediately transferred in favour of respondents 3 to 6, subject to the directions given earlier."

10.This judgement was followed in Vediammal K. Vs. The Regional Transport Authority (1989 Writ L.R. 391).

11.The learned Additional Government Pleader would submit that in the event of the order to be passed by this court directing the competent authority to issue permit in the name of the petitioner, the right of the other legal heirs must be protected.

12.In fact, making a reference to this submission, the order passed by the Coordinate Bench of this court in T.Nithin Vs. The Regional Transport Authority, Kanyakumari District, Kanyakumari and two others (WP(MD)No.21095 of 2018, dated 10/12/2018). The conclusion portion of the order runs like this.

"7.Recording the said undertaking and respectfully following the decision of the Hon'ble Madras High Court referred to above, I am of the view that in the interest of the travelling public and to preserve the permits in



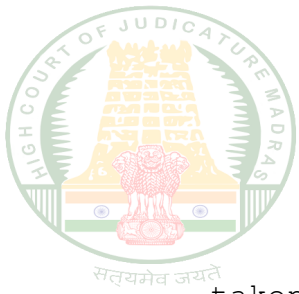
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question, the order impugned in this writ petition deserves to be quashed. It is accordingly quashed. The first respondent is directed to effect transfer on the permits in question in favour of the writ petitioners within a period of three weeks from the date of receipt of a copy of this order. The writ petitioner shall however hold the same not only for his benefit but for the benefit of the other legal heirs. Of course, this will be subject to the outcome of O.S No.47 of 2017 on the file of the District Judge, Nagercoil. It is open to the third respondent to verify the accounts submitted by the writ petitioner. It is also open to the civil court to pass appropriate directions in that regard."

13.This will be the proper course to be adopted by this court, since the 4th and 5th respondents have not chosen to appear before this court and made objection. But however, as mentioned above, it the duty of this court to protect the interest of the non-representing and non appearing parties also.



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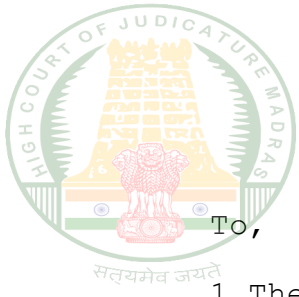
14.In the light of the above said consistent stand taken by this court in the above writ petitions, this civil revision petition stands **allowed**. The impugned order passed by the appellate tribunal, confirming the order of the 1st respondent is set aside. There shall be a direction to the Regional Transport Authority, Tenkasi District namely the first respondent herein to issue permit for the petitioner herein subject the result of the competent civil court judgment.

15.With the above said direction, this civil revision petition stands **allowed**. No costs. Consequently, connected Miscellaneous Petition is closed.

22/03/2024

Index:Yes/No
Internet:Yes/No

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To,

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- 1.The Regional Transport Authority,
Tenkasi District,
Tenkasi-627 811.
- 2.The Tamil Nadu State Transport Appellate Tribunal,
Chennai.
- 3.The Additional Government Pleader,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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