

(1974) 02 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 1493 of 1971

B. Sridhara Kakkilaya

APPELLANT

Vs

Commissioner for Transport and Others

RESPONDENT

Date of Decision : 12-02-1974

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 10
Motor Vehicles Act, 1939 — Section 33 (1) (b)

Citation : AIR 1975 Kar 29 : (1974) ILR (Kar) 598 : (1974) 1 KarLJ 446

Hon'ble Judges : Jagannatha Shetty, J

Bench : Single Bench

Advocate : B. Thilak Hegde, for the Appellant; M. Ramakrishna, High Court Govt. Pleader and U.L. Narayana Rao, for the Respondent

Judgement

1. Shri B. Sridhara Kakkilaya, is an Advocate practising at Kasargod. He challenges in this petition the validity of an order by which the registration certificate of his vehicle bearing No. MYX 9691 has been suspended for a period of thirty days by the Senior Regional Transport Officer, South Kanara, in exercise of his powers u/s 33 (1) (b) of the Motor Vehicles Act, 1939.

The petitioner is in an unfortunate position. The vehicle in question was not made use of for committing any offence after he purchased the same. The said vehicle was made use of for conveying some passengers from Bellary to Puttur for hire without any valid permit for that purpose. The RTO issued a notice to show cause why the registration certificate of the vehicle should not be suspended. Respondent 3 before me was the then owner of the vehicle. He submitted his explanation denying the allegation, but, rejecting his explanation the RTO suspended the registration certificate of the vehicle for a period of thirty days by his order dt. 7-11-69.

When the appeal against the said order was pending before the Commissioner for Transport, the third respondent transferred the ownership of the vehicle to the petitioner on 12-2-1971. The petitioner, apparently, did (not?) know that the

registration certificate of the vehicle was kept under suspension. He purchased the vehicle and also got the same registered in his favour. The appeal preferred by the third respondent was dismissed on 15-4-71. The petitioner did not get himself impleaded as a party to the appeal. Obviously, he did not know of the pendency of the appeal. After the dismissal of the appeal, the RTO, Mangalore, called upon the petitioner to surrender the registration certificate of the vehicle. At that stage, the petitioner has approached this Court for relief under Article 226 of the Constitution.

2. The contention urged by Sri Tilak Hegde, learned Counsel for the petitioner, was that the petitioner was a bona fide purchaser of the vehicle without notice that the registration certificate of the vehicle was under suspension, and therefore, he should not be directed to surrender the relevant documents of the vehicle. In support of his contention, he relied upon a decision of the Kerala High Court in *Hajee M. Abdulla v. RTO, Authority, Kozhikhode* 1964 Ker LT 112.

3. The facts of that case are almost similar to the facts of the case on hand. The Court after holding that the petitioner therein was a bona fide transferee, observed thus:

"In my view, in the circumstances of this case, it is absolutely necessary in the interests of justice that persons like the petitioner, who claim to have obtained transfer of the vehicle bona fide and for value, without any knowledge that proceedings have been initiated as against them, must certainly be able to satisfy the authorities at least prima facie that they are persons who have purchased the vehicle bona fide and for value and have no knowledge of any offence having been committed by the transferor or of any proceedings being pending as against him."

With the above observation, the Court remanded the matter to the RTO for further investigation as to whether the petitioner therein was a bona fide purchaser who had no knowledge of the proceedings taken against the transferor, for suspending the registration certificate.

4. With great respect, I am unable to agree with the principle stated therein. Section 33 of the Motor Vehicles Act, 1939, confers power on any registering authority to suspend the certificate of registration of a vehicle, if it is satisfied that the vehicle,

"(a) is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of Chapter V or the Rules made thereunder, or

(b) has been, or is being used for hire or reward without a valid permit for being used as such."

The action contemplated under the section is to suspend the certificate of registration of the vehicle and not personally against the owner of the vehicle. When during the pendency of the proceedings or appeal, the vehicle in question is

transferred or otherwise dealt with by the owner is not the transferee bound by the result of the proceedings? He is bound by the general principle of law governing the transfer of any property which is the subject-matter or a pending suit or appeal. The transferee is always bound by the result of the litigation, whether he is added on as a party or not. He is not under any legal obligation to apply for being added on as a party to the proceedings, though liberty is given to him under Order XXII, Rule 10 C. P. C., to apply for leave to continue the proceedings. In my judgment, the case on hand cannot be an exception to these principles, in the absence of any provision in the Motor Vehicles Act giving protection to a bona fide transferee of the vehicle with or without knowledge of the suspension of the registration certificate.

5. Mr. Hegde made a fervent appeal to the Court for reducing the period of suspension as the petitioner is a senior member of the Bar, who bona fide purchased the vehicle without notice of the order suspending the registration certificate. I agree with him that the petitioner has become a victim of circumstances, and, therefore, deserves a lenient view of the matter.

6. I, therefore, allow the writ petition in part, modify the order dt. 7-11-1969 made by the RTO, South Kanara, limiting the period of suspension to a period of seven days instead of thirty days. Ordered accordingly. No costs.

7. Petition partly allowed.