

1972
June 7

[MALACHTOS, J.]

DEMOS
CHRISTO-
DOULOU

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

v.

DEMOS CHRISTODOULOU.

REPUBLIC
(CHAIRMAN
OF THE PERMITS
AUTHORITY)

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE CHAIRMAN OF THE PERMITS AUTHORITY,

Respondents.

(Case No. 337/71).

Motor Transport—Road Service Licence—Public Service vehicle licensed as such on the date of the coming into operation of the Motor Transport (Regulation) Law, 1964 (Law No. 16 of 1964)—Section 17 of said Law—Change in the ownership of the vehicle concerned—Road service licence, not relating separately to either the specific person to whom it is issued or to the specific vehicle in respect of which it is issued—Therefore, such road service licence lapses and a new one has to be applied for—Kaminaros and Another v. The Republic (1971) 3 C.L.R. 445, followed.

Road Service Licence—Lapses on change of ownership of the vehicle concerned—See supra.

Cases referred to :

Kaminaros and Another v. The Republic (1971) 3 C.L.R. 445, followed.

The facts sufficiently appear in the judgment of the learned Judge, whereby it was held that a road service licence lapses on change of the ownership of the vehicle concerned and a new one has to be applied for; and such application has to be considered in the light of the circumstances prevailing at the

time of such new application.

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Recourse.

Recourse for a declaration that the act and/or decision of the respondents by virtue of which they refused applicant the issue of a public carrier's licence "A" for his goods vehicle is null and void.

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L. Pelekanos, for the applicant.

V. Aristodemou, Counsel of the Republic,
for the respondent.

Cur. adv. vult.

The following judgment was delivered by :

MALACHTOS, J.: The relief claimed by the applicant in this recourse is for "a declaration of the Court that the act and/or decision of the respondents dated 26.6.71, by which they refused the issue of a public carrier's Licence "A" for his goods vehicle under registration No. TAP 886, is null and void and of no legal effect whatsoever."

The vehicle in question was originally registered as a motor lorry on 3.6.58 under the Motor Vehicles and Road Traffic Law Cap. 332, and the Regulations made thereunder. After the coming into operation of the Motor Transport (Regulation) Law, 1964, and up to 18.12.67, this vehicle was licensed to circulate in the name of its then owner Ioannis Charalambous, for the carriage of goods under a public carrier's Licence "A" all over Cyprus with Aglanja as a parking place. Aglanja is within the urban traffic area of Nicosia.

As it appears from *exhibit 3*, the Certificate of registration, the said motor vehicle was transferred on 8.11.67 in the name of a certain Andreas Kyriacou of Aglanja and on 21.4.71 in the name of Demos Christodoulou of Vatyli, the present applicant.

On the 22nd May, 1971, the present applicant applied

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to the respondent Authority for the issue of a public carrier's Licence "A" in respect of the said vehicle and on 2.7.71 he received the following reply:

"The Licensing Authority at its meeting of the 26th June, 1971, considered your application, but it has been rejected as the needs of the urban traffic area of Nicosia are adequately served by the existing carriers 'A'."

Against this decision the applicant filed the present recourse.

The main argument on behalf of the applicant—in fact the only argument of substance—is that the act and/or decision of the respondents was taken contrary to section 17 of the Motor Transport (Regulation) Law, 1964 (16/64), inasmuch as the vehicle in question was licensed as a public service vehicle on the day of the coming into operation of the said law and so the respondents ought to consider the application of the applicant as an application for renewal of such a licence and not as a new application. Section 17 of Law 16/64 reads as follows:

"17. Notwithstanding anything contained in this Law a public service vehicle licensed as such on the date of the coming into operation of this Law shall be licensed under the provisions of this Law if it is so constructed or adapted for use as to comply with the relevant provisions of this Law."

On the other hand, it has been argued on behalf of the respondent authority that in view of the fact that the vehicle in question changed ownership, section 17 of Law 16/64 has no application in the present case.

In *Frixos Kaminaros and Another v. The Republic of Cyprus through the Permits Authority* (1971) 3 C.L.R. 445, it has been decided by the President of this Court, Mr. Justice Triantafyllides, that "Whether and how a licence relates to a person or thing is a matter to be decided by construing the provisions of the relevant legislation. As it is to be derived from the whole of

our own relevant legislation the legal position regarding road service licences issued under Law 16/64, appears to be that a road service licence which is issued under Law 16/64, does not relate separately to either the specific person to whom it is issued or to the specific vehicle in respect of which it is issued and that, therefore, if there is a change in the ownership of the vehicle concerned, the licence lapses and a new one has to be applied for."

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In the light of the above case, the reasoning of which I fully adopt, I hold the view that the respondents were right in considering the application of the applicant as a new application and not as an application for renewal. It was further entirely open to them to take into account all relevant considerations and reach the decision which they did.

For the reasons stated above this application fails.

In the circumstances I make no order as to costs.

*Application dismissed;
no order as to costs.*