

#S-8

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 18.11.2022

MAT.APP.(F.C.) 180/2022 & CM APPL. 49351/2022 (Stay)

DANISH FARUQUI

..... Appellant

versus

SANA AHMED

..... Respondent

Advocates who appeared in this case:

For the Appellant : Mr. Abhay Ranjan, Advocate
along with Appellant in-person.
For the respondent : None.

CORAM:

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE AMIT SHARMA**

J U D G M E N T

SIDDHARTH MRIDUL, J. (OPEN COURT)

CM APPL. 49352/2022 (Exemption)

Exemption allowed, subject to all just exceptions.

The application is disposed of accordingly.

MAT.APP.(F.C.) 180/2022 & CM APPL. 49351/2022 (Stay)

1. The present appeal under Section 19(1) of the Family Courts Act, 1984 read with Section 151 of the Code of Civil Procedure, 1908,

assails an order dated 07.11.2022 in GWA No.64/2018, passed by the Family Court, South East District, Saket, New Delhi, allowing an application filed by Ms. Sana Ahmed, praying for directions to Mr. Danish Faruqui, her estranged husband, to co-operate in the renewal of the passport of their minor daughter, namely, Ayzah Faruqui, who is a US citizen, by signing and sending a consent Form DS-3053, i.e., notarized Statement of Consent along with identification documents to the American Citizen Services, U.S. Embassy, Nyaya Marg, Chanakyapuri, New Delhi, by post or to appear in person to furnish the same.

2. The appellant asseverates that firstly, there is no urgency insofar as the renewal of his daughter's US passport is concerned, since the same is due to expire by efflux of time only in the month of March, 2023.

3. It is further urged that, Ms. Sana Ahmed, is a 'habitual offender', inasmuch as, she has 'abducted' their minor daughter, without his consent in the past.

4. It is observed that the learned Family Court having considered the relief prayed for, in the subject application and hearing submissions made on behalf of the parties, observed as follows:-

“The law with regard to custody and other related matters in respect of a minor child has

been settled through plethora of judgments by the Hon'ble Supreme Court and the Hon'ble High Courts. It is trite law that in such matters, the welfare of the minor child is paramount consideration which supersedes the rights of the father or mother. In the battle of egos and acrimonious litigations, it is to be ensured by the Court, while exercising *parens patriae* jurisdiction, that the child does not become a victim of circumstances. In fact, welfare of the child comprehends an environment which would be most conducive for the optimal growth and development of the personality of the child.

As per the submissions of the petitioner himself, validity of US passport of the minor daughter will expire in end of March, 2023. In this regard, it was submitted by the respondent that the passport can be renewed within the last year of its expiry which should ideally be renewed six months before date of expiry. The respondent accordingly applied for renewal of the passport after depositing passport renewal fees of \$135. She also visited the US Embassy, New Delhi along with the minor daughter on 08.07.2022 per the scheduled appointment and marked their presence. The respondent also duly communicated to the petitioner about the appointment date by sending multiple e-mails, WhatsApp messages, couriers and also made various telephonic calls to him but to no avail. The respondent also tried to contact family members of the petitioner which also proved futile. The petitioner did not appear on the scheduled appointment date at the US Embassy, New Delhi.

During the course of arguments, it was also stated that the minor daughter is in a state of shock and anger as her father (petitioner) did not turn up at the US Embassy for renewal of her passport which is also hurting her mental wellbeing.

Since, the passport has already been cancelled by the US Embassy as holes have been punched, the minor daughter has no valid identity document outside her country of

citizenship which certainly makes the renewal of passport necessary. The apprehension expressed by the petitioner regarding false portrayal of urgency, the respondent being habitual offender in child abduction and there being an imminent probability of international abduction of the minor daughter has no legs to stand. In the absence of any legal provision or authoritative pronouncements of any Hon'ble Court of Record, the apprehension regarding implications of furnishing Form DS-3053 by the petitioner is nothing but a figment of his own wild imagination.

It is, therefore, clear that the petitioner deliberately did not submit Form DS-3053 i.e. notarized Statement of Consent in the US Embassy by post or by visiting in person on the scheduled appointment date. Such neglect on the part of the petitioner does not augur well to serve the best interests of the minor child and is certainly not conducive to her welfare.

As per the e-mail dated 04.10.2022, the American Citizen Services has extended the application of the respondent seeking renewal of passport of the minor daughter for an additional 90 days i.e. up to 7th January, 2023 to provide either the father's notarized consent and ID on Form DS-3053 or a sole custody document."

5. Having considered the facts and circumstances antecedent and attendant, the appellant was directed *vide* the impugned order dated 07.11.2022, to appear in person before the US Embassy, New Delhi, at the earliest available appointment date and furnish Form DS-3053, i.e., notarized Statement of Consent to the American Citizen Services.

6. Having heard learned counsel appearing on behalf of the appellant, as well as, the latter, who appears before this Court in person, we are of the view that, his arguments in relation to the

renewal of his minor daughter Ayzah Faruqui's passport, are specious. A valid passport has a consequence of enabling the holder to travel without let or hindrance, subject to compliance with the laws in force and the directions issued by the competent courts. The learned Family Court has passed the impugned order keeping the welfare of the minor daughter in consideration inasmuch as, the latter has no valid identity document regarding her citizenship.

7. In sum and substance, the principle grievance of the appellant is that, in the event he was to comply with the impugned order dated 07.11.2022, it would in effect be relinquishing custody of the minor daughter of the parties, to his estranged wife.

8. In view of the foregoing, the only course that commends itself to us is, to uphold the impugned order dated 07.11.2022, subject, however, to the condition as imposed by the Family Court *vide* order dated 27.07.2022, to the effect that, Ms. Sana Ahmed, shall not remove Ayzah Faruqui, her minor daughter from the territorial jurisdiction of the Court, without prior permission and leave.

9. We find ourselves in complete agreement with the findings arrived at by the learned trial court, which warrant no interference from this Court, save and except the restrictions regarding the travel.

10. No further directions are called for.

11. With the above direction, the appeal is disposed of. The pending application also stands disposed of.

**SIDDHARTH MRIDUL
(JUDGE)**

**AMIT SHARMA
(JUDGE)**

NOVEMBER 18, 2022/rs

[Click here to check corrigendum, if any](#)



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