

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 1757 of 2015 (T)

PETITIONER(S) :

**SUVAIBA,
D/O.MUHAMMED ABDURAHIMAN,
R/AT CHEMBALAKKATTIL HOUSE, MUDAVAMMOL,
KOCHANOOR P.O,THRISSUR DISTRICT.**

BY ADV. SRI.A.AHZAR

RESPONDENT(S) :

- 1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI-110 001.**
- 2. PASSPORT OFFICER,
PASSPORT OFFICE, THRISSUR-680 001.**
- 3. REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, ERNAKULAM.**

*** ADDITIONAL R4 IMPEADED**

- 4. MOHAMMED YASIF,
HOUSE NO.51, SREE NAGAR, NCC ROAD,
PEROORKADA, THIRUVANANTHAPURAM - 695 005.**

*** ADDITIONAL R4 IS IMPEADED AS PER ORDER DATED 17.03.2015 IN
I.A.NO.3817/2015.**

**R1 TO R3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
ADDL.R4 BY ADVS. SRI.T.K.SAIDALIKUTTY
SRI.M.I.JOHNSON
SRI.T.K.MOIDEEN KUTTY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

WP(C).No. 1757 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE BIRTH CERTIFICATE.

EXT.P2: TRUE COPY OF THE DIVERSE AGREEMENT.

EXT.P3: TRUE COPY OF THE ONLINE APPOINTMENT RECEIPT.

EXT.P4: TRUE COPY OF THE ANNEXURE-C AFFIDAVIT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 1757 of 2015

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Dated, this the 6th day of April, 2015

JUDGMENT

The petitioner, who is mother of a minor child, has approached this Court for issuance of passport to the minor child, since the application preferred by her in this regard is not being positively dealt with by the 3rd respondent, stating that the petitioner has to produce consent of father of the child or has to obtain favourable orders from a competent Court of Law. The case of the petitioner is that the marriage between the petitioner and the 4th respondent has already been broken down and they are living separate. Under such circumstances, the petitioner is entitled to have the benefit of the judgment flowing from **Juvairiya Vs. Regional Passport Officer [2014 (1) KLT 990]**. According to the petitioner her child is aged only about eight months and there is nobody to lookafter them, since her parents and brother are settled abroad. It was in the said circumstances that the petitioner sought to apply for passport in respect of her minor child.

2. Pursuant to notice on admission ordered by this Court, the 4th respondent has entered appearance and has filed counter affidavit. It is stated that the version put forth by the petitioner is not at all

correct and that there is mistake in respect of date of divorce as well. It is stated that the petitioner and the 4th respondent got divorced only on 06.01.2015. The learned counsel for the 4th respondent also expresses anxiety with regard to the course being pursued by the petitioner for getting the passport by denying the visitorial right of the 4th respondent. A statement has filed on behalf of the respondents 1 to 3 as well, with respect to the requirements to be complied with by the petitioner, if she is desirous to have the passport issued in favour of her minor child.

3. Heard both the sides in detail.

4. During the course of hearing the learned counsel for the 4th respondent submits that the petitioner and the 4th respondent have filed two separate proceedings before the Family Court. The learned counsel for the petitioner submits that, even if the passport is issued to her minor child, she is not intending to go abroad unless proper orders are obtained from the Family Court. The learned counsel for the 4th respondent points out that an interim order has passed by the Family Court on 13.03.2015, to the effect that child shall be produced before the Court at 11 am of every Saturday, enabling the 4th respondent to have interaction with the child. The learned counsel for the petitioner submits that the

petitioner is ready to satisfy the said requirement and that the child will be taken abroad, only subject to further orders to be obtained from the Family Court.

5. In the above circumstances, the third respondent is directed to consider the application preferred by the petitioner for issuance of passport in the name of her minor child. The proceedings in this regard shall be pursued and finalized, in accordance with law, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. It is made clear that the petitioner shall not take the child abroad, without obtaining appropriate orders from the concerned Family Court and shall not deny the visitorial right of the 4th respondent.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the concerned respondent for further steps.

The writ petition stands disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd