

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C) .No. 4396 of 2015 (Y)

PETITIONER(S) :

MUHAMMED RAFEEL,
S/O.CHELLA ROWTHER, 18/73 FARSHANA MANZIL,
EDAYAR STREET, HEAD POST OFFICE,
PALAKKAD-678 001.

BY ADVS.SRI.A.R.GANGADAS
SRI.M.L.SURESH KUMAR.

RESPONDENT(S) :

1. THE UNION OF INDIA,
REP. BY SECRETARY, EXTERNAL AFFAIRS DEPARTMENT,
NEW DELHI-110 001.
2. THE PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, INTERCITY ARCADE,
DOWNHILL POST, MALAPPURAM, KERALA-676 519.
3. THE STATION HOUSE OFFICER,
TOWN NORTH POLICE STATION, PALAKKAD-678 014.

R1 & 2 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT P1 : TRUE COPY OF THE RELEVANT PAGES OF THE PASSPORT
NO.B1721120 ISSUED ON 22-03-2000.

EXT P2 : TRUE COPY OF THE PETITION IN OP.O.945/2013 ON THE FILE
OF THE FAMILY COURT, PALAKKAD.

EXT P3 : TRUE COPY OF THE ORDR DATED 25-09-2014 IN M.C.NO.87/2013
ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
II.

EXT P4 : TRUE COPY OF THE ACKNOWLEDGEMENT LETTER DATED
30-04-2014.

EXT P5 : TRUE COPY OF THE LETTER DATED 27-08-2014 ISSUED BY THE
SECOND RESPONDENT.

EXT P6 : TRUE COPY OF THE REPLY DATED 18-09-2014.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R.RAMACHANDRA MENON, J.

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Dated this the 9th day of March, 2015

JUDGMENT

The petitioner who is a businessman is the holder of Indian Passport bearing No.B1721120 which was issued on 22.3.2000 and expired on 21.3.2010. The marital relationship between the petitioner and his wife became strained which lead to filing of O.P.No.945 of 2013 before the Family Court, Palakkad by the wife, for maintenance and return of gold ornaments. There was another case before the Judicial First Class Magistrate's Court II, Palakkad under the Domestic Violence Act as M.C.No.87 of 2013. It is stated that the said case was finally disposed of on 25.9.2014 and no criminal case is pending against the petitioner as on date.

2. The petitioner got an opportunity for attending Hajj (Umra) at Macca and Madeena at KSA. For the purpose, the petitioner wanted to have the passport renewed and accordingly made necessary application before the second respondent. But

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the petitioner has been informed as per Ext.P5 communication dated 27.8.2014, that the request made by the petitioner cannot be acceded to because of the adverse police verification report. This made the petitioner to approach this Court by filing the writ petition seeking for immediate reference.

3. A statement has been filed from the part of the respondents 1 and 2, paragraphs 3 and 4 of which read as follows:

3. The petitioner has applied for re-issue of his existing passport as per file No.ML1077649304114 and the case was sent to District Police Chief, Palakkad for verification and report. As per police report SB No.15644 dated 6.5.14 the applicant was involved in MC 87/2013 pending before the Hon'ble Judicial First Class Magistrate-II, Palakkad and OP 945/2013 pending before the Family Court, Palakkad. The issue of Passport was not recommended by police due to these cases pending against the applicant.

4. Show Cause Notice (Ext.P5) was sent to the applicant on 27.8.2014 and his explanation Ext.P6 dated 18.9.2014 was received in the office of the 2nd respondent. The case was referred to District Police Chief, Palakkad along with the explanation for re-verification and report. Police has not recommended the case due to pendency of

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the above mentioned cases against the petitioner. Hence passport was not issued to the petitioner.

4. Heard both the sides. There is no dispute to the fact that the case which is pending consideration before the Judicial First Class Magistrate's Court-II, Palakkad has come to an end by virtue of Ext.P3 order passed in M.C.No.87 of 2013 dated 25.9.2014. Paragraph 15 of the said order reads as follows:

15. Point No.5:- In the result, the following reliefs are given to the petitioner:

- 1. 1st respondent shall not commit any physical violence against the petitioner.*
- 2. 1st respondent is restrained from evicting the petitioner and her two children from the plaint A schedule property.*
- 3. 1st respondent is directed to pay ₹10,000/- per month to the petitioner and her two children towards maintenance.*
- 4. 1st respondent is restrained from alienating plaint A schedule property.*
- 5. Respondent is directed to pay monthly maintenance to the petitioner and her children on or before 5th day of every month.*

5. It is stated by the petitioner that the petitioner is

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continuing to abide the commitment by virtue of Ext.P3. The case pending before the Family Court cannot place any impediment in the request made by the petitioner for issuance of passport, in terms of any of the provisions of the Passport Act, since it is purely of a civil nature.

6. After hearing both the sides, this Court is of the view that, in so far as there is no dispute with regard to the factual position that no criminal case is pending against the petitioner before any Court, the request made by the petitioner to renew the passport of the petitioner is liable to be entertained.

7. The learned counsel for the petitioner asserts that the petitioner is a businessman doing business in the State for the past several decades and that the purpose for seeking renewal of the passport is only to perform Hujj pilgrimage.

8. In the above circumstances, Ext.P5 communication will stand set aside and the second respondent is directed to reconsider the application preferred by the petitioner for issuance/renewal of the passport notwithstanding the pendency

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of the proceedings before the Family Court. Appropriate steps shall be taken to reissue/renew the passport in accordance with law, at the earliest, at any rate within three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. The petitioner shall produce a copy of this judgment along with a copy of the writ petition, before the second respondent, for further steps.

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

rkc.