

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 8535 of 2015 (N)

PETITIONER :

MINU JOSELINE MORRIS, AGED 46 YEARS,
D/O.JOHN ANDREW MORRIS, 'APPOSA', MARUTHADI.P.O.,
KOLLAM, REPRESENTED BY POWER OF ATTORNEY HOLDER,
JAQUILINE MORRIS, D/O.JOHN ANDREW MORRIS,
AGED 43 YEARS, 'APPOSA', MARUTHADI.P.O.,
KOLLAM.

BY ADVS.SRI.C.A.CHACKO
SRI.SEBY JOSEPH
SMT.C.M.CHARISMA

RESPONDENTS :

1. UNION OF INDIA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
MINISTRY OF EXTERNAL AFFAIRS, SOUTH BLOCK,
GOVERNMENT OF INDIA, NEW DELHI – 110 001.
2. THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE,
THIRUVANANTHAPURAM – 695 001.

R1& R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8535 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1: TRUE COPY OF ORDER IN I.A.NO.330/2011 IN GOP.1014/10 OF FAMILY COURT, THRISSUR.

EXT.P2: TRUE COPY OF JUDGMENT IN MAT.APPEAL NO.285/2012 DATED 21/2/2013.

EXT.P3: TRUE COPY OF ORDER DATED 22/6/2013 IN GOP.NO.1014/10.

EXT.P4: TRUE COPY OF ORDER IN OP (ADOPTION) NO.559/2013 DATED 28/2/2014.

EXT.P5: TRUE COPY OF BIRTH CERTIFICATE DATED 3/4/2014.

EXT.P6: TRUE COPY OF ON-LINE APPLICATION DATED 6/6/2014 FOR PASSPORT.

EXT.P7: TRUE COPY OF RELVANT PAGE OF PETITIONER'S INDIAN PASSPORT.

EXT.P8: TRUE COPY OF RELEVANT PAGE OF PETITIONER'S AMERICAN PASSPORT.

EXT.P9: TRUE COPY OF REPRESENTATION DTED 9/6/2014 MADE BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS : NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.8535 of 2015

Dated this the 17th day of August, 2015

JUDGMENT

The petitioner is working as Staff Nurse in America and she is a divorcee. She filed G.O.P.No.1014 of 2010 before the Family Court, Thrissur for getting appointed as guardian of a minor girl by name Ria Ceacile Morris, who was born on 23.4.2010 to one Mini Thomas. By Ext.P1 order passed by the Family Court in I.A.No.330 of 2011 the petitioner was granted interim custody of the minor child. But G.O.P.No.1014 of 2010 was finally dismissed by order dated 31.1.2012, which order was under challenge before this Court in Mat.Appeal No.285 of 2012. This Court by Ext.P2 judgment dated 21.2.2013 set aside the order passed by the Family Court and the Family Court was directed to re-consider the matter. Accordingly the Family Court passed Ext.P3 order dated 22.6.2013 by which G.O.P.No.1014 of 2010 was allowed and the petitioner was appointed as the guardian of the minor girl child Ria Ceacil Morris. The interim custody of the minor child was made absolute and the petitioner was given the right to bring up the minor child as her

biological child. A reading of Ext.P3 order passed by the Family Court, Thrissur would show that the natural mother was given the liberty to visit the child once in every year after intimating the petitioner. It was also made clear in Ext.P3 order that the petitioner is not permitted to take the child abroad without the prior permission of the court.

2. After Ext.P3 order, the petitioner filed O.P.(Adoption) No.559 of 2013 under Section 41 of the Juvenile Justice (Care and Protection of Children) Act, 2000 and Rule 37(6) of the Kerala Juvenile Justice (Care and Protection of Children) Rules, 2003 before the First Additional District Court, Thrissur, seeking permission to get custody of the child. By Ext.P4 order dated 28.2.2014 the first Additional District Court, Thrissur allowed the above application. As directed in Ext.P4, the Registrar of Births & Deaths, Kollam Municipal Corporation, has issued Ext.P5 birth certificate dated 3.4.2014.

3. In the light of Exts.P4 and P5, the petitioner by Ext.P6 application dated 6.6.2014 applied for passport to the adopted child, before the 2nd respondent. Ext.P7 is a copy of the Indian passport issued to the petitioner and Ext.P8 is the American passport issued to her on 26.4.2011. Since no orders are passed on Ext.P6

application, the petitioner has submitted Ext.P9 representation before the 2nd respondent. Due to the inaction on the part of the 2nd respondent in issuing passport to the adopted child, the petitioner has approached this Court in this Writ Petition seeking a writ of mandamus commanding the 2nd respondent to issue passport to the adopted child in the light of Exts.P3 to P5 and for other consequential reliefs.

4. A statement has been filed on behalf of respondents 1 and 2 and paragraph 4 of the statement reads thus:-

"4. Now the petitioner has approached this Hon'ble Court to direct the second respondent to issue passport to the adopted child of the petitioner. The petitioner may submit application for passport in respect of the adopted child after obtaining permission of the Hon'ble Family Court, Thrissur to take the child abroad and undertaking to protect and safeguard the best interest of the child and the child would be legally adopted in the United States within 2 years."

5. I heard the arguments of the learned counsel for the petitioner and also the learned Assistant Solicitor General of India appearing for the respondents.

6. As I have already noticed in Ext.P3 order passed by the Family Court, Thrissur, the petitioner was given the right to bring up

the minor child as her biological child and the 1st respondent, who is the natural mother of the minor child, was given liberty to visit the child once in every year after intimating the petitioner. The Family Court has also made it clear that the petitioner is not permitted to take up the minor child abroad without the prior permission of the Court.

7. In view of the specific conditions stipulated in Ext.P3 order passed by the Family Court it is for the petitioner to approach the Family Court in G.O.P.No.1014 of 2010 seeking appropriate permission to take the child abroad as pointed out by respondents 1 and 2 in paragraph 4 of their statement, which is extracted hereinbefore. After obtaining necessary orders in this regard, the petitioner shall submit fresh application before the 2nd respondent for issuing passport to the minor child, which the 2nd respondent shall consider and dispose of, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of that application.

The Writ Petition is disposed of as above.

ANIL K.NARENDRAN, JUDGE

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