

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 8659 of 2015 (F)

PETITIONER:

**RABEEHA, AGED 28 YEARS,
D/O.ABDUL KADAR KUNJU, 41/1344,
KOMALASSERIL HOUSE,
NEAR PULLEPPADY RAILWAY GATE, KOCHI-682 018.**

**BY ADVS.SRI.S.SHANAVAS KHAN,
SMT.S.INDU.**

RESPONDENTS:

- 1. THE MINISTRY OF EXTERNAL AFFAIRS,
REP. BY ITS SECRETARY,SOUTH BLOCK,
GOVERNMENT OF INDIA, NEW DELHI-110 001.**
- 2. THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, KOCHI-682 020.**
- 3. IRSHAD, AGED 31 YEARS, S/O.BASHEER,
MUNDETHU HOUSE, THRIKKUNNAPPUZHA,
ALAPPUZHA DISTRICT, WORKING AT NEHRU COLLEGE,
THIRUVILLAMALA , PAMBADY, PALAKKAD-678 001.**

**R1 & R2 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.
R3 BY ADVS. SRI.K.SHAJ,
SRI.RENJIT GEORGE.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONERS' EXHIBITS:

- P1:- TRUE COPY OF THE BIRTH CERTIFICATE DATED 23/11/2012 ISSUED BY MUNICIPAL CORPORATION OF COCHIN.
- P2:- TRUE COPY OF THE RELEVANT PAGE OF THE PASSPORT OF THE PETITIONER.
- P3:- TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P4:- TRUE COPY OF THE ONLINE APPOINTMENT RECEIPT CONTAINING THE ENDORSEMENT OF THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P(C). No.8659 of 2015-F

Dated this the 9th day of June, 2015.

JUDGMENT

The petitioner is the wife of the 3rd respondent, who seeks for issuance of a Passport to the minor child born in their wedlock by name Ahsana E. The petitioner has filed an application before the 2nd respondent for issuance of a Passport to the minor child, which has been rejected by an endorsement in Ext.P4 that either a consent should be obtained from the father of the minor child or an order from the competent Court.

2. The petitioner has approached this Court under Article 226 of the Constitution of India claiming that the petitioner has filed an application before the Family Court, Ernakulam for divorce as O.P. No.758 of 2014 and divorce has been sought on the ground of desertion. While, the proceedings before the Family Court are pending, the petitioner seeks to get the Passport in the name of the minor child, since she intends to travel abroad for

employment, as deputed by her employer.

3. The learned Assistant Solicitor General of India, appearing for the respondents 1 and 2, would however contend that, as per the Passport Manual, 2010, the requirement is that when divorce action is pending between the parties, the Passport Issuing Authority has to insist on the consent of both the parents or alternatively the applicant should obtain an order from the Court for issuance of the Passport to the child.

4. The issue with respect to the rejection of issuance of a Passport, on consent not being obtained from the other parent was considered by this Court in **Juvairiya v. Regional Passport Officer** [2014 (1) KLT 990], wherein it was held that, if the affidavit as required under the Passport Rules, 1980 (for brevity, Rules of 1980) is submitted, then, necessarily the Passport Officer would have to issue the Passport in the name of the minor child.

5. At the outset, it is to be noticed that the 3rd respondent, who is the father of the minor child, was impleaded herein and despite service of notice, none appears for him before this Court. Since a divorce application is pending between the petitioner and

the 3rd respondent, the affidavit filed by the petitioner under Annexure 'G' of the Rules of 1980 may not be proper and the petitioner would be required to file an affidavit under Annexure 'C' before the Passport Issuing Authority. On such application being filed specifically showing the reason for consent being obtained; which happens to be the desertion of the petitioner and the minor child by the 3rd respondent; after issuing notice to the father of the minor child, the application has to be considered, as has been laid down in the aforecited judgment. The petitioner shall accordingly file a proper affidavit along with a fresh application before the Passport Issuing Authority and the Passport Issuing Authority shall immediately issue notice to the father and finalise the proceedings at any rate within a period of one month from receipt of the application, along with the affidavit, as mentioned herein above.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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