

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 18489 of 2015 (I)

PETITIONER(S) :

**AFIDHA, AGED 25 YEARS,
W/O.JAMSHIR MOIDU V.P.,KARAKUNNATHU HOUSE,
PERINGALA (P.O), ERNAKULAM - 683 565.**

**BY ADVS.SRI.NIDHI BALACHANDRAN
SRI.SABU GEORGE**

RESPONDENT(S) :

- 1. THE UNION OF INDIA,
REPRESENTED BY IT'S SECRETARY TO GOVERNMENT,
DEPARTMENT OF MINISTRY OF EXTERNAL AFFAIRS,
PATIALA HOUSE, NEW DELHI - 110 001.**
- 2. THE PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, PANAMPILLINAGAR,
ERNAKULAM - 682 036.**

*** ADDITIONAL R3 IMPEADED**

- 3. K.A.AHAMMAD HABEEB USMAN,
KARUKUNNATHU, PERINGALA, KUNNATHUNADU VILLAGE.
KUNNATHUNADU TALUK - 683 565.**

*** ADDITIONAL R3 IS IMPEADED AS PER ORDER DATED 29.06.2015 IN
I.A.NO.8601 OF 2015.**

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

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: TRUE COPY OF THE PASSPORT (NO.J8573592) OF THE PETITIONER.**
- P2: TRUE COPY OF THE NOTARIZED COPY OF THE CERTIFICATE
DATED 28/02/2012 ISSUED BY THE PALLIKKARA MUSLIM JAMA-ATH.**
- P3: TRUE COPY OF THE MARRIAGE CERTIFICATE NO.1237/2014
DATED 07/03/2014 ISSUED BY THE SECRETARY & LOCAL REGISTRAR OF
COMMON MARRIAGE, KUNNATHUNAD GRAMA PANCHAYATH.**
- P4: TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 14/12/2013 ISSUED
BY THE PALLIKKARA MUSLIM JAMA-ATH.**
- P5: TRUE COPY OF THE CERTIFICATE DATED 12/05/2015 ISSUED BY
THE SECRETARY, KUNNATHUNAD GRAMA PANCHAYATH.**
- P6: TRUE COPY OF THE ONLINE APPLICATION SUBMITTED BY
THE PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J

W.P(C) No. 18489 of 2015

Dated this the 04th day of August, 2015

J U D G M E N T

The petitioner in the above writ petition seeks change of the name of her spouse in the Passport. The petitioner was originally issued with Ext.P1 Passport showing the name of the additional 3rd respondent as her husband. The petitioner's contention is that the petitioner has obtained divorce from the additional 3rd respondent by way of "Talaq" as per Ext.P2 which is recognised under the Islamic Law. The petitioner has then entered into a second marriage with one Jamshir Moidu as is evidenced by Ext.P3. The Jama ath authority of the petitioner has also certified it and so has the Local Self Government Institution as per Exts.P4 and P5. The petitioner seeks consideration of Ext.P6 application.

2. The objection of the respondent is that the certificate issued by the Jamaath is not sufficient to enable the respondent to change the name of the spouse in the Passport of the petitioner. However, it is to be noticed that the petitioner has

validly registered a marriage as is evidenced at Ext.P3. Ext.P3 is a document which can be relied on by the respondent authorities.

3. The respondent also contends that there should be a proper divorce as directed by the competent court for effecting change of name of the spouse. To that extent, useful reliance can be placed on the judgment in W.P(C) No.30233 of 2009dated 07.12.2009. Paragraph 2 of which is extracted hereunder:

“The petitioner and her former husband are governed by Muslim Law which permits dissolution of marriage by talaq. The documents produced by the petitioner establish beyond doubt that the marriage between the petitioner and her former husband has been dissolved by talaq, which is a mode of divorce accepted by the Muslim community. In such circumstance, it is not necessary for the petitioner to produce a decree passed by a competent civil court dissolving the marriage between her and her former husband Sri.Saifil Mohammed. Further the passport information booklet issued by the respondents insists only on production of an affidavit in the form

prescribed in Annexure "E".

Going by the above precedent, on similar facts herein, the petitioner's prayer is only to be considered and allowed by the respondent. It is also pertinent that herein the petitioner's divorced husband was impleaded as additional 3rd respondent and notice was issued, which notice was returned with the endorsement unclaimed. In such circumstance, going by the above precedent, the petitioner's application shall be considered on the petitioner producing the original of Ext.P3 certificate issued by the Secretary of the Local Self Government Institution and the change of name of her spouse shall be permitted, at any rate, within a period of two weeks from the date of production of the original of Ext.P3 certificate.

Writ petition would stand allowed.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge