

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 19601 of 2014 (A)

PETITIONER :

**MRS.NASEEM HAMZAKOYA, AGED 55 YEARS,
W/O.MR.P.A.HAMZAKOYA, RESIDING AT MEHRAB,
THOTTAKATTUKARA, ALUVA, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.C.A.MAJEED
SRI.K.H.ASIF
SMT.RAAGA R.RAMALAKSHMI**

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF OVERSEAS INDIAN AFFAIRS, AKBAR BHAWAN,
SATYA MARG, CHANAKYAPURI, NEW DELHI-110 021.**
- 2. THE PROTECTOR GENERAL OF EMIGRATION,
MINISTRY OF OVERSEAS INDIAN AFFAIRS, AKBAR BHAWAN,
SATYA MARG, CHANAKYAPURI, NEW DELHI-110 021.**
- 3. THE PROTECTOR OF EMIGRATION,
MINISTRY OF OVERSEAS INDIAN AFFAIRS, 3RD FLOOR,
PUTHRICKAL BUILDINGS, MARKET ROAD, KOCHI-682 035.**
- 4. THE BRANCH MANAGER,
FEDERAL BANK LTD., P.B.NO.1731, M.G. ROAD,
ERNAKULAM-682 016.**
- 5. M/S.SIMI AIRLINKS PVT. LTD.,
MEHRAB, THOTTAKATTUKARA, ALUVA,
ERNAKULAM DISTRICT,
REPRESENTED BY IT'S MANAGING DIRECTOR,
MR.P.A.HAMZAKOYA. PIN-683 108**

R1 TO R 3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

R4 BY ADV. SRI.A.ANTONY

SMT.LEELAMMA ANTONY

R5 BY ADV. SRI.MVS.NAMBOOTHIRY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF THE BANK GUARANTEE DATED 3/11/2000 ISSUED BY THE 4TH RESPONDENT.**
- P2: COPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT BANK TO THE 2ND RESPONDENT DATED 31/12/2010.**
- P3: COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT FORWARDING THE REPRESENTATIONS OF THE 5TH RESPONDENT TO THE 2ND RESPONDENT DATED 4/4/2014.**
- P4: COPY OF OTHE LETTER DATED 21/04/2014 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.**
- P5: COPY OF REPLY DATED 23/4/2014 ISSUED BY THE 4TH RESPONDENT BANK.**

RESPONDENT(S)' EXHIBITS

- R5(A): COPY OF THE DIRECTIONS ISSUED BY THE 1ST RESPONDENT VIDE ITS LETTER DATED 09/10/2012**
- R5(B): COPY OF THE REPLY FURNISHED BY THIS RESPONDENT INCLUDING THE DOCUMENTS REQUESTED AS ANNEXURES WITHIN DATED 07/12/2012**
- R5(C): COPY OF THE LETTERS FORWARDED TO THE 1ST AND 2ND RESPONDENT BY THIS RESPONDENT DATED 27/09/2012, 16/07/2013 AND 10/03/2014.**

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

W.P(C). No. 19601 of 2014

Dated this the 13th day of February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- “(i) issue a writ of mandamus or any other writ, order or direction calling for the records leading to Ext.P-1 and P-5 and direct the 2nd respondent to return the original of Ext.P-1 Bank Guarantee expeditiously ;*
- (ii) declare that, the refusal to return the original bank guarantee by the respondents 1 to 3 stands in clear violation of Section 34 of the Emigration Act, 1983;*
- (iii) direct the 4th respondent to release the Ext.P-1 Bank guarantee with interest for withholding the same beyond the expiry of its purpose;”*

2. Heard both the sides. The learned counsel for the petitioner points out that, the relevant proceedings have already been forwarded by the 3rd respondent to the 2nd respondent as evident from Ext.P3 as early as on 06.06.2013, and the matter is pending for quite long. This has caused much loss and hardships to the petitioner and hence the writ petition.

3. A counter affidavit has been filed by the 5th respondent. No counter affidavit has been filed on the part of respondents 1 to 4.

4. After hearing both the sides, the writ petition is disposed of, directing the 2nd respondent to consider and pass appropriate orders on Ext.P3, in accordance with law, after affording an opportunity of hearing to the petitioner. It shall be done, as expeditiously as possible, at any rate within 'six weeks' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the 2nd respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.