

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 20295 of 2015 (J)

PETITIONER :

BINOY THOMAS THOMAS, AGED 40 YEARS,
SON OF MR.THOMAS ARANJANAL CHACKO,
ARANJANAL HOUSE,ANICKAD EAST (P.O),
KOTTAYAM DISTRICT, PIN-686 503 AND
U.S. ADDRESS 1912, EMERSON STREET,
PHILADELPHIA PA 19152.

BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.SAVITHA GANAPATHIYATAN
SRI.M.M.SHAJAHAN
SRI.M.RETHEESHKUMAR

RESPONDENT(S):

1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA,
AKBAR BHAVAN, CHANAKYAPURI, NEW DELHI -110 021.
2. BUREAU OF IMMIGRATION,
COCHIN INTERNATIONAL AIRPORT, NEDUMBASSERY (PO),
ERNAKULAM DISTRICT,PIN-683 585
REPRESENTED BY ITS ASSISTANT DIRECTOR/PRO.
3. ASSISTANT DIRECTOR/PRO,
BUREAU OF IMMIGRATION, COCHIN INTERNATIONAL AIRPORT,
NEDUMBASSERY (PO), ERNAKULAM DISTRICT, PIN-683 585.
4. REGIONAL PASSPORT OFFICER,
PANAMPILLY NAGAR (PO),COCHIN,
ERNAKULAM DISTRICT, PIN -682 036.

*ADDL.R5 IMPEADED

*Addl.R5. EMBASSY OF INDIA,
2107 MASSACHUSETTS AVE NW WASHINGTON DC 20008
REPRESENTED BY ITS AMBASSADOR,
E-MAIL:CONSULAR @ INDIAGOV.ORG.

*ADDL.R5 IS IMPEADED AS PER ORDER DATED 07.07.2015 IN IA.NO. 9497/2015.

R1 TO ADDL.R5 BY ASSISTANT SOLICITOR GENERAL SRI.N.NAGARESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1(A) - COPY OF THE RELEVANT PAGE OF PASSPORT NO.M8814950 ISSUED BY THE 4TH RESPONDENT, DATED 13/07/2006
- EXT.P1(B) - COPY OF THE RELEVANT PAGE OF OLD PASSPORT NO.F8792870 ISSUED BY THE 4TH RESPONDENT, DATED 31/07/2013
- EXT.P2 - COPY OF THE T-I VISA FOR NON-IMMIGRANT CLASSIFICATION ISSUED BY DEPARTMENT OF HOMELAND SECURITY, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, DATED 31/07/2013
- EXT.P3 - COPY OF THE EMPLOYMENT AUTHORIZATION ISSUED BY THE U.S. CITIZENSHIP AND IMMIGRATION SERVICES, DATED 31/03/2013
- EXT.P4 - COPY OF THE TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL ISSUED BY THE U.S. TRANSPORTATION SECURITY ADMINISTRATION, DATED NIL
- EXT.P5 - COPY OF THE TRAVEL AUTHORIZATION ISSUED BY THE DEPARTMENT OF HOMELAND SECURITY U.S. CITIZENSHIP AND IMMIGRATION SERVICE, DATED 17/02/2015
- EXT.P6 - COPY OF THE E-TICKET OF THE PETITIONER, DATED 09/06/2015
- EXT.P7(A) - COPY OF BOARDING PASS OF THE QUTAR AIRWAYS, DATED 04/07/2015
- EXT.P7(B) - COPY OF BAGGAGE PASS OF QUTAR AIRWAYS, DATED 04/07/2015
- EXT.P8 - COPY OF THE SEIZURE BY THE 3RD RESPONDENT, DATED 04/07/2015
- EXT.P9- COPY OF THE GUIDELINES ISSUED BY THE US DEPARTMENT OF HOME LAND SECURITY- CITIZENSHIP AND IMMIGRATION SERVICES INSTRUCTION FOR 1-485, SUPPLEMENT E., DATED NIL
- EXT.P10- COPY OF THE LIST OF COUNTIES WITH WHICH BILATERAL AGREEMENT WITH INDIA, DATED 31/03/2013

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

K. Vinod Chandran, J

W.P.(C).No.20295 of 2015-J

Dated this the 09th day of July, 2015

JUDGMENT

The petitioner seeks for a direction to respondents 2 to 4, to release Passport bearing No.M8814950 and Old Passport No.F8792870, so as to enable him to travel to United States of America on a 'T1' Visa.

2. In a similar circumstance, this Court, vide judgement dated 04.03.2015 in W.P.(C).No.33046 of 2014, permitted the wife and children of a 'T1' Visa holder to travel to United States of America. This Court categorically held that the respondents cannot in any manner restrain the petitioners, holders of derivative Visas, T2 and T3, from travelling to USA to join husband/father who is duly employed therein. In fact, the 'husband/father' referred to in the aforesaid judgment was a 'T1' Visa holder. In such circumstance, this Court is not convinced that the seizure of the Passport and the refusal to permit the petitioner to travel to United State of America are proper. Accordingly, the respondents are directed to permit and enable the petitioner to travel to United States of America upon the Visas duly stamped and issued by the

Government authorities of the United States of America to the petitioner as per Exhibits P1 to P5 documents.

Writ petition allowed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]