

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 24194 of 2014 (Y)

PETITIONER(S) :

**SUBAIR SALAHUDHIN KOLETH, AGED 43 YEARS,
S/O.MANAKKAT THEKKEPURAYIL SALAHUDHIN,
SHANSHA VILLA, THANKAYAM, THRIKARIPUR,
P.O.NORTH THRIKARIPUR, KASARAGOD DISTRICT-671 310.**

**BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH**

RESPONDENT(S) :

**1. THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, ERANHIPALAM P.O.-673 006,
KOZHIKODE DISTRICT.**

**2. THE UNION OF INDIA,
REPRESENTED BY SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI-110 001.**

BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE RELEVANT PAGES OF THE PASSPORT OF THE PETITIONER.

EXHIBIT P2: TRUE COPY OF THE NOTICE ISSUED BY 1ST RESPONDENT DATED 22-08-2014.

EXHIBIT P3: TRUE COPY OF THE EXPLANATION GIVEN BY THE DATED 04-09-2014 BEFORE THE 1ST RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE INTIMATION DATED 19.09.2014 OF THE RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE SUMMONS IN M.C.NO.86/2013.

EXHIBIT P6: TRUE COPY OF THE COMPLAINT FILED BY PETITIONER'S WIFE U/S 12 OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT BEFORE THE JFCM COURT-I, HOSURG.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

W.P.(C) No.24194 of 2014-Y

Dated this the 14th day of July, 2015.

JUDGMENT

The petitioner is said to have been residing in Malaysia for employment purpose since 1992. The petitioner had applied for re-issuance of Passport on the same being damaged, when the petitioner had been to India on leave. The Passport was issued, but subsequently the Passport Issuing Authority [PIA] issued Ext.P2 show-cause notice threatening impounding of the Passport. The contention taken in the said communication was that the petitioner had not disclosed the pendency of M.C. No.86 of 2013 before the Family Court, Kasargod. The said case was not pending before the Family Court, but was before the Judicial First Class Magistrate's Court at Hosdurg.

2. The M.C. No.86 of 2013 pending before the Judicial First Class Magistrate's Court at Hosdurg was a complaint filed by the wife of the petitioner, who has moved the Magistrate's

Court under the Protection of Women from Domestic Violence Act, 2005. No charge has been framed against the petitioner nor has the petitioner been convicted by any Criminal Court. The petition produced at Ext.P6 indicates that the family dispute, which has been agitated before the Jurisdictional Magistrate's Court by virtue of the provisions of a special enactment.

3. This Court has considered the issue in **Kunjumon Thankappan v. Chief Passport Officer and another** [2012 (1) KHC 720] and has found that when matters are pending before Family Court, no impounding shall be done at the Passport, when the Family Court has not issued a specific warrant of arrest or directed impounding of the Passport on the application of the spouse. Even in the present case, though it is filed before the Jurisdictional Magistrate, the petition is under a special enactment and the wife of the petitioner could have moved the Court for impounding the Passport. The same having not been done. The mere pendency of the proceedings cannot result in impounding of Passport.

In such circumstance, Ext.P4 shall stand set aside. The

Passport shall be returned to the petitioner after making sufficient endorsement to indicate its validity till the expiry period. The same shall be done within two weeks from the date of production of a copy of this judgment.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

sp