

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.12108 of 2015

K.V.Rajasekar

.. Petitioner

Vs.

The Regional Passport Officer
Regional Passport Office
The Government of India
Ministry of External Affairs
Rayala Towers No.2 and 3, IV Floor
158/785, Anna Salai, Chennai - 600 002

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent herein to return the Passport bearing No.H 9318278 which is valid till 14.03.2020 to the petitioner herein after making endorsement of the change of residential address in the passport which was entrusted to the respondent herein on 04.01.2013.

For Petitioner : Mr.K.S.Rajagopalan

For Respondent : Mrs.S.Meenakumari
Central Government Standing Counsel

O R D E R

By consent the writ petition itself is taken up for final disposal.

2. The petitioner would submit that he was appointed as Non-Executive Director of the Company, namely M/s.Fidelity Industries Ltd., and he had resigned from the post with effect from 07.06.2000 vide Form No.32 dated 26.06.2000. The said company was ordered to be wound up by this Court in exercise of its jurisdiction under the Companies Act.

3. The petitioner would further state that the Standard Chartered Bank has filed O.A.No.2034 of 2001 on the file of the Debts Recovery Tribunal for recovery of the amount, but the petitioner was not arrayed as respondent/defendant in the said Original Application. However it was dismissed as withdrawn on 07.04.2010 by the Debts Recovery Tribunal No.II, Chennai.

4. The petitioner would aver that he obtained Passport bearing No.H9318278 from the respondent, issued on 15.03.2010 and expires on 14.03.2020.

5. The petitioner has approached the respondent for change of residential address in the said Passport as he had shifted from the previous address at "Sree Mangalam I Block Old No.7, New No.31, 2nd Main Road, Anna Nagar East" to "Flat No.501, A-Block, "Laurels", 81 & 83, C.P.Ramaswamy Road, Alwarpet, Chennai - 600 018".

6. The respondent vide communication dated 10.05.2013 has informed the petitioner that he was directed to deposit the Passport to the Debts Recovery Tribunal as per the order dated 11.07.2001 in O.A. No.2034 of 2001 and therefore, he was called upon to submit the Court order for restoration of passport facility.

7. The petitioner in response to the said communication submitted his reply dated 15.05.2013 to the respondent praying for issuance of the Passport with the change in address at least for one year so as to visit his second son who is engaged to marry on 12.05.2013 and that he is currently employed in USA. Since no response is forthcoming, the petitioner is constrained to file this writ petition.

8. The Learned counsel appearing for the petitioner would submit that along with his letter dated 15.05.2013, he has enclosed xerox copy of the orders passed by the Tribunal, especially, the order dated 07.04.2010, wherein the O.A itself was came to be withdrawn and therefore, no interim order would survive and this fact has not been taken into consideration by the respondent for making correction in the Passport with regard to his present address.

9. Per contra, Ms.S.Meenakumari, the learned Central Government Standing Counsel, who accepts notice for the respondent, would contend that the petitioner did not produce the certified copy of the orders passed by the Tribunal and therefore, the respondent is unable to process the request made by the petitioner.

10. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

11. A perusal of the letter dated 15.05.2013 sent by the petitioner to the respondent admittedly do not indicate about the enclosing of the copy of the orders passed by the Debts Recovery Tribunal No.II, Chennai in O.A.No.2034 of 2001.

12. The learned counsel appearing for the petitioner, on instructions, would submit that the petitioner may be permitted to submit a fresh representation enclosing the certified copy of the above said orders, which are annexed in the typed-set of papers filed along with this writ petition and on such receipt, the

respondent may be directed to pass orders within a stipulated time frame.

13. In response to the said submission, the learned standing counsel appearing for the respondent submitted that as and when the petitioner produces the certified copy of the orders passed by the Tribunal, the request made by the petitioner will be considered and processed in accordance with law.

14. In page 53 of the typed-set of papers, the order passed by the Debts Recovery Tribunal No.II, Chennai dated 07.04.2010 is enclosed and it is relevant to extract the same:

"O.A.2034/01 07.04.10

It is informed by the Id. Counsel for the appellant bank that the 1st defendant company is under liquidation and C.P.No.526 & 139 of 2000 have also been filed before the Hon'ble High Court. The OL has also filed report in this case. Some of the properties of the company which is under liquidation have already been sold. Under such circumstances, the applicant bank has expressed its desire not to proceed further against the guarantors who have not mortgaged any property for the loan availed by the 1st defendant company. Therefore, the Id. Counsel for the applicant has made an endorsement on the OA stating that OA may be dismissed as withdrawn. Accordingly, OA 2034/01 is dismissed as withdrawn."

15. In the light of the fact that the main O.A itself came to be dismissed as withdrawn on 07.04.2010, the interim order passed by the Tribunal during the pendency of the said O.A does not survive. This Court, taking into consideration the above facts and circumstances, permits the petitioner to submit one more representation to the respondent by enclosing a copy of the order made in this writ petition as well as the certified copy of the orders passed by the Debts Recovery Tribunal No.II, Chennai within a period of two weeks from the date of receipt of a copy of this order and the respondent, on receipt of the same, is directed to consider the same in accordance with law and pass orders within a period of four weeks thereafter and communicate the decision taken to the petitioner.

16. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

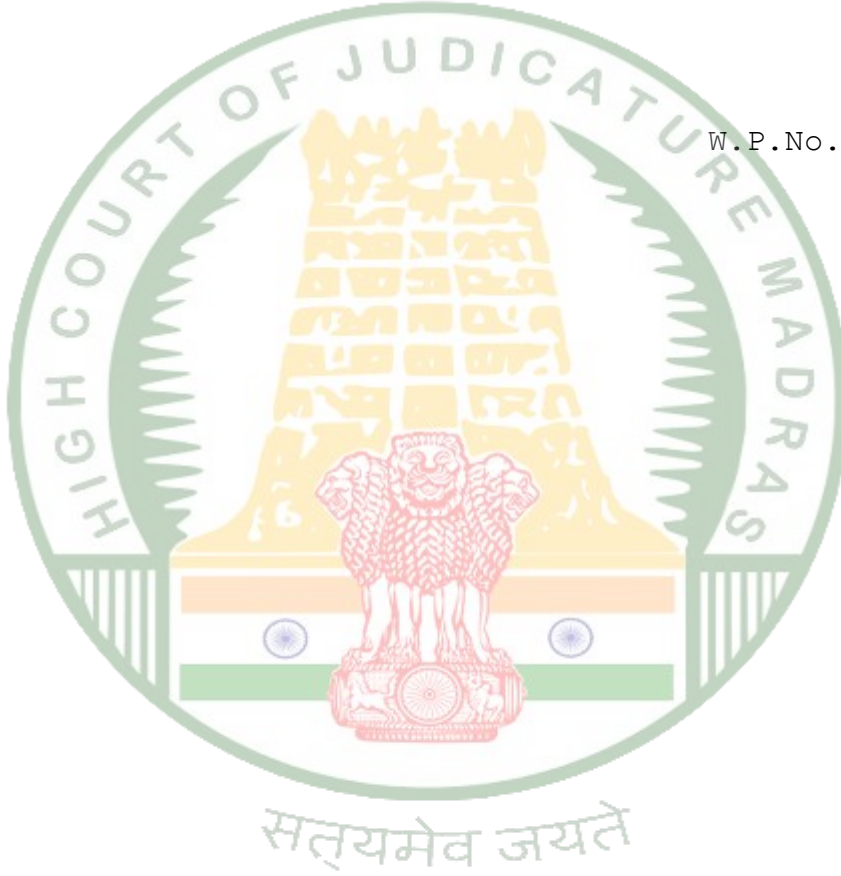
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+1 cc to M/s.S.Meera Kumari, Advocate, Sr.32745

+1 cc to Mr.K.S.Rajagopalan, Advocate, Sr.33125.

Vd(co)
krd 14/7

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