IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2015

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.26569 of 2015
and
M.P.No.1 of 2015

G.Vasudevan ... Petitioner

Vs.

The Regional Passport Officer,
Coimbatore. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondent to issue passport to his adopted son namely Gokulakannan based on the passport application file Number CB 10680 12458714 dated 24.11.2014 by inserting the name of the petitioner as Step father.

For Petitioner : Mr.N.Umapathi

For Respondent : Ms.Sunithakumari,CGSC

O R D E R

The child by name Gokulakannan was born out of the wedlock between one Raji and Thailammal. The petitioner's wife V.Shanthi died long time back. The petitioner has a son by name Arun born out of the wedlock of the petitioner with the deceased Shanthi on 5.10.1997. Thereafter, a deed of adoption dated 15.2.2002 was executed in favour of the petitioner qua the minor child Gokulakannan, which was followed by a decree passed by the Civil Court viz., Additional District Munsif's Court, Salem in O.S.No.132 of 2015. The petitioner sought for issuance of passport in the name of Gokulakannan incorporating his name as the father. The request made by the petitioner was not considered by the respondent in view of the embargo placed by Section 11(1) of the Hindu Adoption and Maintenance Act, by which a person, who is having a son at the time of adoption, cannot adopt another son. Thereafter, the petitioner has come forward before this Court with the present writ petition.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. Section 11(1) of the Hindu Adoption and Maintenance Act, as it stands now, places fetters on the right of a person to adopt a son when the natural son is available. Therefore, the objection raised by the respondent has to be sustained in the eye of law. However, there cannot be any objection for the natural father to have his name incorporated in the application, as what is required is a passport for the minor child viz., Gokulakannan. As and when such an yardstick is adopted, the respondent concerned will have to consider it and then issue the passport as per law.

4. Considering the peculiar facts of the case, the petitioner is permitted to make a fresh application to the respondent for issuance of passport to the minor Gokulakannan. While considering the said application for passport for Gokulakannan, the same shall not be rejected by the respondent on the ground that the documents such as ration card, school certificate and Adhar Card of the minor indicate the name of the petitioner, meaning thereby, they can act as per the birth certificate instead. As and when the application for passport for Gokulakannan is made, the same shall be processed by respondent and appropriate steps will have to be taken for issuance of passport within a period for four weeks from the date of receipt of the application for passport.

5. The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

usk

To
The Regional Passport Officer,
Coimbatore.

+1cc to Mr.N.Umapathi, Advocate, S.R.No.64994
+1cc to Ms.Sunithakumari, CGSC, S.R.No.64970

W.P.No.26569 of 2015

VS(CO)
CA(14/12/2015)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/