

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
W.P.No.12059 of 2016

A.Mansoor Alikhan

.. Petitioner

vs.

1.Union of India,
Ministry of External Affairs,
Rep. by the Regional Passport Officer,
No.220, Mount Road,
Opposite L.I.C.,
Chennai-600 002.

2.The Commissioner of Police,
Vepery,
Chennai-600 007.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to renew the passport of the petitioner bearing No.Z1761112 pending on the file of the first respondent within the date fixed by this Court and thereby dispose of the representation of the petitioner dated 09.02.2016.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.N.Vijaya Baskar,
Central Govt. Standing Counsel for R1
Mr.R.Govindasamy,
Special Govt. Pleader for R2

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner would state that he has been falsely implicated in a case in C.C.No.213 of 2016, registered by Anti Land Grabbing Special Cell-I, Central Crime Branch, Chennai City Police, for the alleged commission of offences under Sections 447, 420, 423, 465, 468, 471 and 506(i) IPC and the trial of the case is pending. The petitioner would further state that on an earlier occasion, he was implicated in another case in S.C.No.579 of 2000 on the file of the Principal City Civil Court, Chennai, wherein the petitioner was directed to compensate the victim and accordingly he has

paid a sum of Rs.7,00,000/-. The grievance expressed by the petitioner is that when he went for renewal of his passport bearing No.Z1761112 dated 22.09.2009, which had validity till 21.09.2010, it was refused to be renewed on the ground of pendency of criminal case and hence, came forward to file this writ petition.

3. Mr.A.R.Nixon, learned counsel appearing for the petitioner has drawn the attention of this Court to Section 6 (2)(f) of the Indian Passport Act, 1967 as well as the notification dated 25.08.1993 issued by the Ministry of External Affairs and would submit that only for the purpose of travelling out of the country, there is a prohibition/bar in respect of persons involved in commission of criminal offences and since he merely wants to renew the passport and also after renewal is also ready and willing to surrender the same before the Court of Metropolitan Magistrate Special Court, Land Grabbing Cases-1, Periamet, Chennai in C.C.No.213 of 2016, there may not be any impediment on the part of the first respondent to renew the passport and prays for appropriate orders.

4. Per contra, Mr.N.Vijayabaskar, learned Central Government Standing Counsel appearing for the first respondent has invited the attention of this Court to the counter affidavit filed by the first respondent and would submit that admittedly, criminal case is pending against the petitioner in C.C.No.213 of 2016 and as per the present procedure, the petitioner has to apply afresh for issuance of passport, as the old procedure of renewal has been dispensed with and the petitioner can do so after obtaining permission from the trial Court and prays for appropriate orders.

5. Mr.R.Govindasamy, learned Special Government Pleader appearing for the second respondent has drawn the attention of this Court to the counter affidavit filed by the second respondent and would submit that the petitioner is arrayed as accused in a case of land grabbing and he, being a cine actor and in the event of his passport being renewed, he may flee out of the country and thereby escape from the process of law and hence, prays for dismissal of the writ petition.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. A perusal of the typed set of documents would reveal that the petitioner is facing prosecution in C.C.No.213 of 2006 on the file of the Court of Metropolitan Magistrate Special Court, Land Grabbing Cases-I, Chennai and the petitioner, in his representation dated 09.02.2016, has submitted that he has to go abroad to settle the marriage proposal of his daughter and for that purpose, he immediately requires passport. Admittedly, criminal case is pending against the petitioner in C.C.No.213 of 2006 and it is a well

settled position of law that unless the guilt of the accused is proved before a competent Court, he is presumed to be innocent. The learned counsel appearing for the petitioner would submit that immediately on issuance of fresh passport, he will surrender the same before the Metropolitan Magistrate Special Court, Land Grabbing Cases-I, Chennai and only after obtaining necessary permission from the said Court, he will go to abroad to settle the marriage proposal of his daughter. The said submission, on instructions, is placed on record.

8. In the result, this Writ Petition is disposed of and the petitioner is at liberty to apply afresh for issuance of passport to the first respondent, who on receipt of the same, shall entertain the said application, if the papers are otherwise in order and give a disposal as expeditiously as possible not later than four weeks thereafter and in the event of fresh passport being issued to the petitioner, he shall surrender the same forthwith to the Metropolitan Magistrate Special Court, Land Grabbing Cases-I, Chennai in connection with C.C.No.213 of 2016. The petitioner is also at liberty to apply to the said Court for return of passport for the purpose of going abroad to settle/arrange the marriage proposal of his daughter. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.Regional Passport Officer,
Union of India,
Ministry of External Affairs,
No.220, Mount Road,
Opposite L.I.C., Chennai-600 002.

2.The Commissioner of Police,
Vepery,
Chennai-600 007.

+1 cc to Mr.A.R.Nixon, advocate,sr.48580

+1 cc to Mr.N.Vijaya Baskar,advocate,sr.48462.

ad(co)

krd 7/9

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