

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

CORAM

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

W.P.No.1258 of 2016

Ambiga Elumalai,
D/o M.Elumalai,
Mother cum Natural Guardian of
Thushiyanth Dhamodharan,
S/o Ambiga Elumalai,
Residing at Flat No.203, Wesley House,
No.19, Chapel Street, Luton,
LU1 2Se, United Kingdom.
rep. by her Power Agent,
Kamala Elumalai,
W/o M.Elumalai,
New No.11, Old No.37,
Saurashstra Nagar 9th Street,
Choolaimedu, Chennai-600 094. ... Petitioner

Vs.

- 1.The Union of India,
rep., by Immigration Officer,
Ministry of Immigration,
New Delhi.
- 2.The Indian High Commission,
India House, Aldwych,
London, WC 2B 4NA,
United Kingdom.
- 3.The Union of India, rep. by
Immigration Officer,
Ministry of Immigration,
Shastri Bhavan, Chennai.

4.The Protector General of Emigrants &
Joint Secretary (EP),
Ministry of Overseas Indian Affairs,
Akbar Bhawan, Chanakyapuri,
New Delhi-110 021.

5.The Secretary to the Government,
Ministry of Overseas Indian Affairs,
Akbar Bhawan, Chanakyapuri,
New Delhi- 110 021.

.. Respondents

Prayer: Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the third respondent to issue OCI (Overseas Citizenship of India) passport to Thushiyanth Dhamodharan, aged 10 months old.

For Petitioner ... Mr.P.Srinivasan

For Respondents ... Mr.Jaya Ganesh for R1, R3 to R5

ORDER

This writ petition is filed on behalf of the petitioner by her mother based upon a duly authorised power deed. It appears to be an unfortunate case. The petitioner is the mother of the child by name Thushiyanth Dhamodharan, aged about 10 months old. According to the petitioner, she was made to live in a refuge place in view of the harassment caused by her husband. When she made an application for issuance of Overseas Citizen of India Passport (OCI), the Indian High Commission viz., second respondent has refused to give the same on the ground that the signature of the father of the child is not available. It is stated that the father is absconding in view of the proceedings initiated by her. She has to come to India along with child urgently for attending a marriage of her brother scheduled to be held on 10.02.2016.

2. Considering the above said peculiar fact situation, the writ petition is disposed of by directing the petitioner to apply for the passport on line at the earliest. On receipt of the same, the third respondent is directed to consider the process of issuance of passport under the Overseas Citizenship of India category as was given to the first child without insisting upon the signature of the father of the child and do the needful within a period of one week from the date of receipt of such an application. This order is passed by taking note of

the peculiar facts of the case and there is no dispute on the fact that the petitioner is the mother of the child, as even as per the manual, in a given case, the third respondent can consider the processing of issuance of passport without the signature of the father. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Immigration Officer,
Union of India,
Ministry of Immigration,
New Delhi.
- 2.The Indian High Commission,
India House, Aldwych,
London, WC 2B 4NA,
United Kingdom.
- 3.The Immigration Officer,
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Shastri Bhavan, Chennai.
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Akbar Bhawan, Chanakyapuri,
New Delhi-110 021.
- 5.The Secretary to the Government,
Ministry of Overseas Indian Affairs,
Akbar Bhawan, Chanakyapuri,
New Delhi- 110 021.

+1 cc to Mr.P.Srinivasan, Advocate, sr.5211
+1 cc to Mr.K.S.Jeyaganeshan, Advocate, sr.5191

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kra 28.01.2016