

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.38614 of 2015
and
MP.No.1 of 2015

M.Uthama Asirvatha Udaiyar

... Petitioner

Vs.

Regional Passport Officer,
Office of the Regional Passport,
25, AGT Business Park,
Avinashi Road, Civil Aerodrome Post,
Coimbatore 641 014.

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, to direct the respondent herein to consider the petitioner's application for re-issuance of the passport of the petitioner's minor child namely U.Miriam submitted vide File No.CB1078910220115 dated 28.10.2015 pending on the file of the respondent herein and re-issue the passport of the minor Child U.Miriam as expeditiously as possible.

For Petitioner : Mr.R.Anand

For Respondent : Mr.J.Madanagopal Rao

ORDER

The petitioner has come up with the present writ petition for a Mandamus, directing the respondent to consider his application bearing File No.CB1078910220115 dated 28.10.2015 and to re-issue the passport to his minor child viz., U.Miriam as expeditiously as possible.

2. It is the case of the petitioner that he is a priest in the church and in the course of his religious work, he has to travel abroad frequently particularly, to Germany, where the headquarters of his church is situated. He got married one Wiebke Kerstin Udaiyar and is having children. He and his wife have also adopted one Minor U.Miriam, who is none else than the

granddaughter of the petitioner's own sister through an adoption deed dated 20.04.2011, which was validated by an order dated 08.09.2014 made in Guardian Original Petition No.64/2014 passed by the Principal District Judge, Thanjavur. Pursuant to the same, the petitioner made a petition in CMP.No.2600/2015 before the Judicial Magistrate No.1, Thanjavur directing the Commissioner, Thanjavur Municipality, Thanjavur to enter their names as adoptive parents in the place of the biological parents in the birth register of the said minor child. The said petition was ordered. Consequently, the birth certificate of the minor child with the names of the adoptive parents was obtained by the petitioner.

3. It is the further case of the petitioner that based on the validation of the said adoption, he surrendered the minor child's old passport, wherein, the names of the biological parents were mentioned and made an application to the respondent to re-issue the passport of his minor child with the names of the adoptive parents. On receipt of the same, the respondent cancelled the old passport of the minor child U.Miriam and accepted the application for re-issuance of passport vide File No.CB1078910220115 dated 28.10.2015, however, he did not re-issue the passport. As the petitioner arranged for a journey to Germany on 11.12.2015 and obtained Visa and Travel tickets for the same, the passport of his minor child is very much required. Therefore, he approached this court with the present writ petition for the above stated relief.

4. A counter affidavit has been filed on behalf of the respondent interalia contending as follows:

(i) As per the unregistered guardianship deed submitted by the petitioner, he was appointed as guardian for the minor child Miriam on 20.04.2011. However, by suppressing the said fact, he obtained passport No.J8399554 for his minor child on 15.6.2012 with the names of the biological parents viz., Selvaraj and Raji. Therefore, under Section 10(3)(b) of the Passport Act, 1967, the same is a criminal offence.

(ii) After accepting the application for re-issuance of passport to the minor child of the petitioner, as a procedure, the earlier passport issued to the minor child was cancelled, in order to avoid misusing the passport by anybody.

(iii) Since there were some discrepancies in the application, the matter was referred to Legal and Treaties Division, Ministry of External Affairs on 24.11.2015 to get legal opinion for processing the same. However, pursuant to the interim order passed by this court dated 09.12.2015, passport No.N4290326 dated 10.12.2015 was issued to the minor applicant with his biological parents' names and the same was delivered to the petitioner across the counter on 10.12.2015 itself.

(iv) Further, in para 10 of the counter affidavit, it has been stated that the application submitted by the petitioner is pending for want of police verification report. Under these circumstances, the issuance of passport to the minor applicant can be considered, only after all the discrepancies are sorted out and after getting opinion from L&T Division, Ministry of External Affairs and clear police report from the police authorities.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

6. Considering the facts and circumstances of the case and also in the light of the categorical submission made in para 10 of the counter affidavit to the effect that the petitioner's application to re-issue passport to his minor child U.Miriam is pending for want of police verification report, I am of the opinion, no specific direction is required to the respondent in this writ petition. However, the respondent is directed to re-issue passport to the petitioner's minor child U.Miriam within a period of two weeks from the date of receipt of the police verification report, if the said report is in favour of the petitioner.

7. The writ petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

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Sub Assistant Registrar

To

The Regional Passport Officer,
Office of the Regional Passport,
25, AGT Business Park,
Avinashi Road,
Civil Aerodrome Post,
Coimbatore 641 014.

+1cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.26722
+1cc to Mr.R.Anand, Advocate, S.R.No.26522

WP.No.38614 of 2015

AD(CO)
CA(06/05/2016)