

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.6572 of 2016
WMP.No.5851 and 18680 of 2016

G.Ramkumar

.. Petitioner

Vs.

The Regional Passport Officer,
Regional Passport Officer,
No.2 and 3, Rayala Towers,
158, Mount Road,
Chennai-600 002.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the proceedings bearing Ref.No.IMP/303600393/16 dated 16.02.2016 on the file of the respondent and to quash the same as illegal and without jurisdiction.

For Petitioner : Mr.Sarath Chandran

For Respondent : Mr.Su.Srinivasan,
Additional Solicitor General

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that he married one Sreedha, who hails from Palakkad in Kerala on 23.05.2012 at Emoor Bhavanam, Kalvakkulam temple in Kallekulangara in Palakkad. However, the marital relationship turned so after some time and during July 2012, the wife of the petitioner left the matrimonial home and started residing in her parental home. The petitioner has left for Thailand to continue his employment and returned to India during August 2012. The petitioner would further state that his wife had surreptitiously instituted proceedings in MC.No.397 of 2013 under Section 125 CrPC on the file of the Family Court at Palakkad and obtained an exparte order of maintenance for a sum of Rs.50,000/- per month and she

also filed M.O.P.No.897 of 2013 on the file of the jurisdictional Court for dissolution of marriage and it was decreed exparte on 06.01.2014. The petitioner has also filed Crl.M.P.No.672 of 2015 to set aside the exparte order of maintenance granted in MC.No.397 of 2013. The petitioner would further state that to his shock and surprise, he has received a show cause notice dated 16.02.2016 stating as to why action should not be taken to impound his passport bearing No.Z176427 dated 03.09.2010 under Section 10(3)(h) and Section 12(1)(b) of the Indian Passports Act, 1967. However, to the shock and surprise of the petitioner, even before responding to the show cause notice, the impugned order came to be passed on the very same day impounding the passport of the petitioner with a request to furnish the passport with immediate effect. The petitioner, challenging the legality of the order dated 16.02.2016, has filed this writ petition.

3. The learned counsel appearing for the petitioner would submit that before the petitioner could response to the show cause notice dated 16.02.2016, the impugned order came to be passed on the very same day and thereby offending the principles of natural justice and prays for interference.

4. Per contra, Mr.Su.Srinivasan, learned Additional Solicitor General would submit that the Family Court Palakkad, vide order passed in Crl.MP.No.672 of 2015 has directed the Regional Passport Officer, Chennai to impound the petitioner's passport and in compliance of the order of Court only, the passport of the petitioner came to be impounded and the remedy open to the petitioner, is to either approach the Regional Passport Officer under Section 10(4) or to file an appeal under Section 11 of the Passport Act, 1967 and prays for dismissal of this writ petition.

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

6. As rightly contended by the learned counsel appearing for the petitioner, the respondent has issued a show cause notice dated 16.02.2016 and even before the petitioner respond to the said show cause notice, the respondent has passed the impugned order on the very same day, impounding the passport of the petitioner and hence, on that ground alone, the impugned order warrants interference.

7. In the result, this writ petition is partly allowed and the order of the respondent in Ref.No.IMP/303600393/16 dated 16.02.2016 is set aside and the matter is once again remanded to the respondent. The petitioner is at liberty to submit his response/representation to the show cause notice 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 said representation in accordance with law and pass

orders within a further period of two weeks thereafter. It is also open to the petitioner to approach the Family Court, Palakkad to vary/set aside the order passed in CrI.MP.No.672/2015, in and by which the said Court ordered impounding of the petitioner's passport. No costs. Consequently, connected miscellaneous petitions are closed.

jvm

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

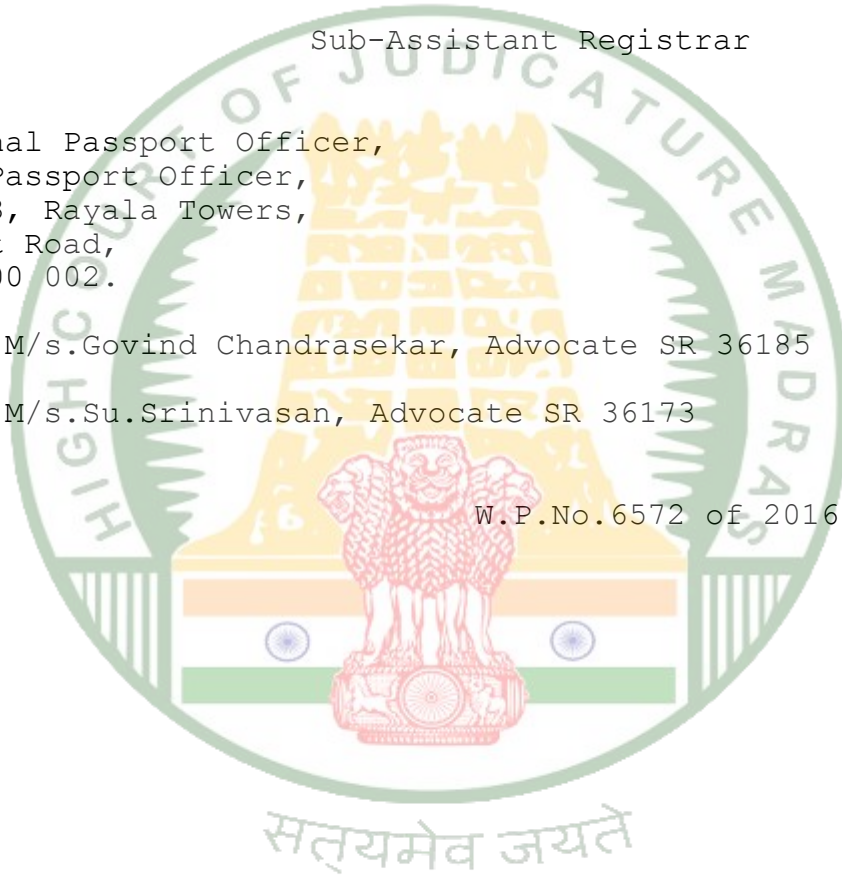
The Regional Passport Officer,
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+ 1 cc to M/s.Govind Chandrasekar, Advocate SR 36185

+ 1 cc to M/s.Su.Srinivasan, Advocate SR 36173

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