

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal No.1343 of 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P.No.4370 of 2015 dated 16.08.2016. The 1st respondent herein is the wife of the appellant, and is the petitioner in W.P.No.4370 of 2015, wherein she sought a direction to declare the inaction of the Regional Passport Officer, Secunderabad in failing to impound the passport of the appellant who, according to her, had deliberately violated the orders of the Hon'ble XI Metropolitan Magistrate Court, L.B.Nagar in D.V.C.No.9 of 2012 as arbitrary and illegal.

Sri M.S.Prasad, learned Senior Counsel appearing on behalf of the appellant, would submit that the averments in W.P.M.P.No.24012 of 2016 in W.P.No.4370 of 2015, filed by the 1st respondent-writ petitioner, show that the appellant is residing in Dubai whereas, admittedly, the notice was sent to another address in Sharjah; and Sharjah and Dubai are different Emirates. In paragraph 10 of the affidavit, filed in support of W.P.M.P.No.24012 of 2016 in W.P.No.4370 of 2015, the 1st respondent-writ petitioner has stated that the appellant was residing in Dubai, and was causing hindrance in the progress of the case.

The notice, in the writ petition, was sent to an address at Sharjah, and not in Dubai. The order in the Writ Petition came to be passed recording the submission of the 1st respondent-writ petitioner that the notice was sent to a P.O. Box, and must be deemed as service of notice. The appellant claims to be residing in Dubai at the address given in the cause title in the Writ Appeal, and is now represented by Sri V.Vijay Rama Raj, learned counsel, before this Court.

In the light of the dispute regarding the correct address, to which the notice should have been sent, we consider it appropriate to give the appellant an opportunity of being heard in the Writ Petition. At the same time, we deem it unnecessary to direct notice in the writ petition to be issued afresh to the appellant herein. Sri M.S.Prasad, learned Senior Counsel appearing on behalf of the appellant, would fairly state that no further notice is required to be sent to the appellant, as he is now represented by Sri V.Vijaya Rama Raj, learned counsel; and notices, if any, may be served on the learned counsel. Learned Senior Counsel would request that two weeks time be granted to the appellant (2nd respondent in the writ petition) to file his counter affidavit.

We consider it appropriate, in such circumstances, to set aside the order under appeal, and restore W.P.No.4370 of 2015 to file. It is open to the appellant (2nd respondent in the writ petition) to file his counter affidavit within two weeks from today, and for the 1st respondent-writ petitioner, after two weeks, to request the learned Single Judge to take up hearing of the Writ Petition.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

09th December, 2016

Note: Issue C.C. by 14.12.2016.

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Date: 09.12.2016

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