

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.39576 of 2015

ORDER:

The petitioner questions the objection raised by the 2nd respondent under the impugned proceedings Ex.P-1, dated 17-11-2014. The petitioner, who is a minor, is represented by her maternal grand father, who is the father of petitioner's mother and he filed an application for grant of passport to the petitioner and in view of objection raised under the impugned proceedings requiring consent of both parents or a decree of a Court, the present writ petition is filed.

The averments in the affidavit show that the marriage of the parents of the petitioner was solemnized in the year 1994 and the petitioner was born on 12-11-1998. The mother of the petitioner has filed F.C.O.P.No.194 of 2012 before the Civil Judge, Khammam, seeking divorce and the same is stated to be pending. The parents of the petitioner are living separately. Her mother is eking out her livelihood in the United States of America and her father has abandoned the marital home and his whereabouts are not known and he never bothered to enquire about the welfare of the petitioner or her mother and as such, the petitioner's maternal grandfather is looking after her. The petitioner is studying in Sri Chaitanya IIT-JEE Academy and now she wishes to join her mother in U.S.A. and also to pursue her education there. The passport applied, however, was objected to for non-production of both parents consent or court decree regarding custody of minor.

Learned counsel for the petitioner states that such condition is clearly onerous as the parents of petitioner are estranged, and as divorce proceedings are pending in the court, the parties cannot give any cooperation from either side nor the petitioner can produce decree as sought for.

Learned Assistant Solicitor General appearing for the respondents has received instructions and submits that taking contingency of this nature, the Passports Act, 1967 provides a mechanism under which a single parent of

the minor child can apply for passport on behalf of minor as per Annexure-C. It is pointed out that Annexure 'G' specifically refers to declaration of applicant, parent or guardian if passport is for minor, (one parent not given consent) and submits that if appropriate Annexure 'G' is filed along with Annexure 'C', the petitioner's application would be considered afresh.

Learned counsel for the petitioner states that Annexure 'C' has already been filed and the petitioner undertakes to file Annexure 'G'.

In view of the above, the petitioner is permitted to file Annexure 'G' declaration in terms of the Passports Act, 1967 and the Passport Rules, 1980 and as Form-C is already filed by the petitioner, the 2nd respondent shall examine the petitioner's request for passport afresh in the light of Annexures 'C' and 'G' and other documents and take appropriate decision in the matter. The objection, as per the impugned order, is impossible for compliance. In the facts and circumstances of the case, the impugned order is set aside and the matter is remitted to the 2nd respondent for re-consideration, as directed above.

Accordingly, the writ petition is allowed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 19-01-2016

Prv

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