

CWP No.26805 of 2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.26805 of 2015
Date of decision:05.08.2016**

Prerna Katia

...Petitioner

Versus

Regional Passport Office Chandigarh and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Pankaj Katia, Advocate,
for the petitioner.

Mr. Puneet Gupta, Advocate,
Senior Panel Counsel for the UOI.

Rakesh Kumar Jain, J.

The petitioner Prerna Katia was married to Dhruv Garg S/o Rajesh Garg on 10.12.2006. They were blessed with a daughter, namely, Addvita, on 03.11.2009. Addvita was holding a passport No.L7104536 issued on 13.02.2014 in the name of Addvita Garg. The petitioner and her husband were having matrimonial disputes, which resulted into divorce based upon the settlement dated 19.05.2015, arrived at during mediation proceedings in this Court. Husband of the petitioner consented to pay a sum of ₹1 Crore towards full and final maintenance/alimony to the petitioner and minor Addvita and in return, the petitioner agreed to withdraw all the cases filed against her husband. Both the parties also agreed not to file any other case against each other in respect of their matrimonial disputes. Husband of

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the petitioner also consented to waive off his visiting rights to his minor daughter whose custody was given to the petitioner and it was specifically agreed that Addvita Garg shall be known as Addvita Katia daughter of Prerna Katia instead of Addvita Garg D/o Dhruv Garg. The said settlement has been made part of the order passed by the Division Bench of this Court on 30.07.2015 in FAO No.M-434 of 2014 and permission was granted to the petitioner to withdraw her appeal.

After her divorce, the petitioner has become a single parent of her minor daughter. The petitioner moved an application on 13.08.2015 to the respondents for the purpose of seeking correction of sur-name and deletion of father's name of Addvita from her passport. Since the respondents were not reacting to her request, therefore, the present petition has been filed, seeking a direction to the respondents to correct sur-name of her daughter from Addvita Garg to Addvita Katia and also for deletion of the name of her ex-husband from the passport of her daughter.

After notice, the respondents have filed reply in which it is averred that request of the petitioner was referred to the Ministry of External Affairs, New Delhi and were advised vide its letter dated 30.09.2015 to process her case in terms of the provisions of Paragraph 4.5 of Chapter 8 of the Passport Manual, 2010 (hereinafter referred to as the "Paragraph 4.5"), which is reproduced as under:-

"IV. Parent name not to be deleted from passport consequent to Divorce:

Paragraph 4.5- Request for deletion of parent name from passport due to parents' divorce should not be accepted. By virtue of the divorce decree, only the relation as wife and husband severs. The

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divorce decree does not result in severance of the relation between the child and the parent, unless the parent has legally disowned the child.”

Counsel for the petitioner has submitted that after the divorce on the basis of a settlement between the parties, in which they have also agreed that the daughter of the petitioner shall retain sur-name of her mother instead of the sur-name of her father, the provisions of Paragraph 4.5 is not at all applicable and in this regard, reliance has been placed upon a decision of the Supreme Court in the case of **ABC vs. The State (NCT of Delhi)**, 2015(3) R.C.R. (Civil) 766 and a judgment of the Delhi High Court in the case of **Shalu Nigam and another vs. The Regional Passport Officer and another**, W.P.(C) No.155 of 2016, decided on 17.05.2016.

I have heard learned counsel for the parties and perused the available record with their able assistance.

There is no dispute that the petitioner has parted ways with her husband by way of a judicial order of divorce, based upon a settlement, in which she had already received the entire amount of maintenance/alimony and custody of her minor daughter. It has also been agreed between the parties that the daughter of the petitioner shall retain her mother's sur-name and may be called in future as Addvita Katia instead of Addvita Garg. The only concern shown by the respondents is on the basis of the provision of Paragraph 4.5 in which it is provided that the deletion of parent name from passport due to parents' divorce should not be accepted. It further provides that the divorce decree does not result in severance of the relation between the child and the parent, unless the parent has legally disowned the child.

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In this case, husband of the petitioner has virtually disowned his daughter as in the settlement, he did not ask for her custody or even visiting rights and agreed that the petitioner would continue to have custody of her minor daughter without any kind of his interference or his family members in future. He also paid full and final amount towards maintenance of his daughter in one go while paying the maintenance/alimony to his wife/petitioner and agreed that after the settlement, his daughter shall not be known as Addvita Garg but as Addvita Katia.

From these facts and circumstances, it is very much clear that husband of the petitioner has disowned his daughter legally by way of a settlement before the Court of law which has become part of the order passed in the appeal filed by the petitioner. Besides this, the decision of the Delhi High Court in **Shalu Nigam's case (supra)** deals with the provisions of Paragraph 4.5, in which it has been held that the respondents can insist upon the name of the biological father in the passport only if it is a requirement in law but in the absence of any provisions making it mandatory to mention the name of one's biological father in the passport, the respondents cannot insist upon the same. It is further held that the mother's name is sufficient in the passport in case of single woman who can be a natural guardian and also a parent. In this regard, the Court had taken judicial notice of the fact that families of single parents are on the increase due to various reasons like unwed mothers, sex workers, surrogate mothers, rape survivors, children abandoned by father and also children born through IVF technology.

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Thus, keeping in view the aforesaid facts and circumstances especially the fact that the provision of Paragraph 4.5, referred to above, rather helps the petitioner because it provides that name of the parent can be deleted if the parent has legally disowned the child, which has been proved on record on the basis of the terms and conditions of the settlement and the observations made in **Shalu Nigam's case (supra)**.

Consequently, the present petition is hereby allowed and the respondents are directed to make necessary correction in sur-name of the daughter of the petitioner from Addvita Garg to Addvita Katia and also to delete the name of her biological father i.e. Dhruv Garg from her passport as Addvita Katia is now the daughter of a single parent i.e. her mother Prerna Katia. The necessary correction shall be carried out within a period of one month from the date of presentation of certified copy of this order.

August 05, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No