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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5437/2016

ALIEVA SABINA & ANR

..... Petitioners

Through: Mr.Jaspreet Singh Rai, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Vijay Joshi, Senior Panel Counsel
with Mr.Gaurav Rohilla, Advocate
for the respondent Nos.1 & 2.
Mr.Ganesh Choobey, ACIO-I and
Mr.Satwinder, Sub Inspector.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **02.06.2016**

CM Appln.22623/2016

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 5437/2016

The petitioner, an Uzbek National, who claims to have married for the second time to an Indian National, is aggrieved by the order dated 15.12.2015 whereby the respondent FRRO has served her with a 'Leave India Notice' with a specific direction to leave the country by 31.12.2015.

Learned counsel for the petitioner submits that the petitioner was married to one Shekhar Dutt on 01.06.2009 after she came to India on a Tourist Visa in 2009. Within few months of their marriage, Mr. Shekhar

Dutt went missing and was not to be heard of. The petitioner, thereafter, had a live-in relationship with one Mr.K.M.L. Nayyar, another Indian citizen. While staying with Mr. Nayyar, the petitioner gave birth to two children. Since the petitioner required an 'X' visa to stay in this country after her marriage with an Indian National, she preferred a writ petition bearing WP(C) No.10843/2015 before the Delhi High Court seeking a direction to the FRRO to expedite the verification process of the documents for the purpose of extension/grant of visa. The aforesaid writ petition was filed pursuant to an order passed by the FRRO on 02.01.2013 asking the petitioner and her son to leave the country by 09.01.2013.

A Bench of this Court, on the said petition, directed the FRRO to consider the case of the petitioner and take a decision with respect to grant/extension of visa positively on or before 15.12.2015.

Mr.Joshi, learned counsel appearing for the FRRO, on instructions from an officer from the department, submits that pursuant to such a direction of this Court, the petitioner submitted a representation requesting the authorities to withdraw the 'Leave India Notice' dated 02.01.2013. In the aforesaid representation it was stated by the petitioner that she had legally wedded one Mr.Shekhar Dutt and was in an advanced stage of pregnancy. Simultaneously, while claiming subsistence of marriage with Shekhar Dutt, she also informed the FRRO that she had applied for divorce on the ground that Mr. Shekhar Dutt not being traceable and heard of for a long time. She further explained to the authorities that a male child, Tular Aliev Krishanovich was born on 25.03.2013 while was staying in a live-in relationship with Mr. K.M.L Nayyar.

During the proceedings before FRRO, Mr.K.M.L Nayyar also

approached the authorities in support of the petitioner and submitted that the child was born while the petitioner stayed with him for some time. However, he also informed the authorities that before contracting live-in relationship with the petitioner, he was legally wedded to another person namely Mr.Nataliya Mamrenko with whom he was having strained relationship for some reason.

Mr. Joshi, learned counsel for the FRRO submits that when the authorities came to the conclusion that the passport issued in the name of the son of the petitioner was fraudulently and collusively obtained, the said passport was impounded by the Regional Passport Office. However, in the field enquiry by the authorities, it was revealed that the petitioner was presently living with Mr. Nayyar in Vasant Kunj. The aforesaid factual position was disputed by the other wife of Mr. Nayyar who has been staying in this country after obtaining PIO card and passports for her children.

Considering the rival claims of the parties, the FRRO slapped the petitioner with 'Leave India Notice' dated 15.12.2015 (impugned order).

Learned counsel for the petitioner submits that the petitioner, after having married Mr. Nayyar, is in family way and is in an advanced stage of pregnancy. The consulting doctor has advised her not to undertake air travel during the period of her advanced pregnancy as she is expected to deliver by mid June 2016.

Considering the health aspect of the petitioner, the FRRO is directed not to enforce the order impugned in the present petition and allow the petitioner to remain in this country till 15th August, 2016.

The petitioner shall leave the country within 15 days thereafter i.e. by 30.08.2016. In case, the petitioner does not leave the country and that fact

comes to the knowledge of the FRRO, the FRRO would take effective steps for implementation of its order for making the petitioner leave this country. Mr. Joshi, learned counsel for the FRRO further submits that in view of the impounding of the passport of son of the petitioner, the petitioner would be required to obtain travel documents from the Embassy of Uzbekistan, the country of origin of the petitioner. The petitioner is directed to take steps for obtaining the aforesaid documents in advance, as early as possible, so that by 30.08.2016, the petitioner and her son may leave the country.

This writ petition is disposed of in terms of the above.

A copy of order be given dasti under the signatures of the Court Master.

JUNE 02, 2016
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ASHUTOSH KUMAR, J