

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2017

CORAM

The Honourable MR. JUSTICE M.DURAI SWAMY

W.P.No.8833 of 2017

A.Mansoor Alikhan

...Petitioner

v.

- 1 Union of India
Ministry of External Affairs
Rep. by the Regional Passport Officer
No.220, Mount Road
Opposite L.I.C.
Chennai - 600 002.
 - 2 The Commissioner of Police
Vepery, Chennai - 600 007
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents to reissue the passport of the petitioner bearing No.P3917045 issued by the Regional Passport Office, Chennai on 16.10.2016.

For Petitioner : Mr.A.R.Nixon
For Respondents : Mr.Su.Srinivasan - for R1
Mr.A.N.Thambidurai
Spl. Govt. Pleader - for R2

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ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus directing the respondents to reissue his passport bearing No.P3917045 issued by the Regional Passport Office, Chennai on 16.10.2016.

2.1 It is the case of the petitioner that he has been falsely implicated in a case in C.C.No.213 of 2006 registered by

Anti Land Grabbing Special Cell-I, Central Crime Branch, Chennai City Police, for the alleged commission of offences under sections 447, 420, 423, 465, 468, 417 and 506(i) of IPC and the trial of the case is pending.

2.2 Earlier, the petitioner filed a writ petition in W.P.No. 12059 of 2006 for a direction to the first respondent to renew the passport. This Court, by order dated 26.08.2016, recording the pendency of C.C. No.213 of 2006, disposed of the writ petition directing the first respondent to entertain the application if the papers are otherwise in order and give a disposal as expeditiously as possible and in the event of fresh passport being issued to the petitioner, he shall surrender the same forthwith to the Metropolitan Magistrate Special Court, Land Grabbing Cases-I, Chennai in connection with C.C.No.213 of 2016. This court also gave liberty to the petitioner to apply to the Special Court for return of the passport for the purpose of going abroad. Subsequently, the first respondent issued a fresh passport dated 06.10.2016 bearing No.P3917045 and the petitioner also surrendered the passport before the Land grabbing Special Court-I.

2.3 Thereafter, the petitioner filed a petition in CrI.M.P.No.328 of 2016 in C.C.No.8 of 2012 for return of the passport to go abroad. The Trial Court, returned the passport enabling the petitioner to go abroad on 24.03.2017, imposing some conditions. At the time of getting return of the passport, the petitioner noticed that by mistake, the Criminal Court had affixed the office seal on the passport.

2.4. It is pertinent to note that no authority other than the Visa processing authority have right to make any endorsement on passport. Therefore, the petitioner had applied for re-issuance of the passport enabling him to travel abroad and to that effect the petitioner also filed a petition before the Special Court, and the Special Court, by order dated 23.03.2017, returned the passport to the petitioner for the purpose of going abroad. Enclosing the copy of the order passed by the Special Court, the petitioner sought for re-issuance of the passport. However, the first respondent has not reissued the passport to the petitioner.

3. In paragraph No.7 of the counter filed by the first respondent it has been stated as follows:-

"7.With regard to paragraphs 7 to 12, it is submitted that as far as this office is concerned, Passport No.P3917045, dated 06.10.2016, valid till 05.10.2026, issued to the petitioner is a valid document. However, due to endorsement of the seal of the special court in

his passport No.P3917045, if the petitioner wants to apply for reissue, he may apply under normal category (since the adverse report was received in his previous passport application), along with his explanation stating the reasons for reissue of passport and undertaking by the petitioner to abide by the directions of the Hon'ble High Court order in W.P.No.12059 of 2016. On receipt of the same, this office will process his passport application with same validity as mentioned in his previous Passport No.P3917045, however, on pre verification basis and in accordance with law, and in terms of directions of this Hon'ble Court in W.P.No.12059 of 2016."

4. When the Criminal Court had passed an order permitting the petitioner to go abroad and also returned the passport to him, the first respondent is bound to reissue the passport to the petitioner. When the office seal has been inadvertently affixed on the passport by the Special Court, that cannot be put against the petitioner for getting a new passport.

5. In these circumstances, I am of the view that the first respondent should reissue fresh passport to the petitioner in view of the order passed by the Special Court dated 23.03.2017. However, it is made clear that the petitioner is directed to surrender the passport before the Special Court after returning back to India. The first respondent is directed to process the petitioner's application and reissue the passport to him, within ten days from the date of receipt of a copy of this order.

With these observations, the writ petition is disposed of. No costs.

Sd/-
सत्यमेव जयते

Assistant Registrar

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Sub Assistant Registrar

Rj

To

1 The Regional Passport Officer
Union of India
Ministry of External Affairs
No.220, Mount Road
Opposite L.I.C.
Chennai - 600 002.

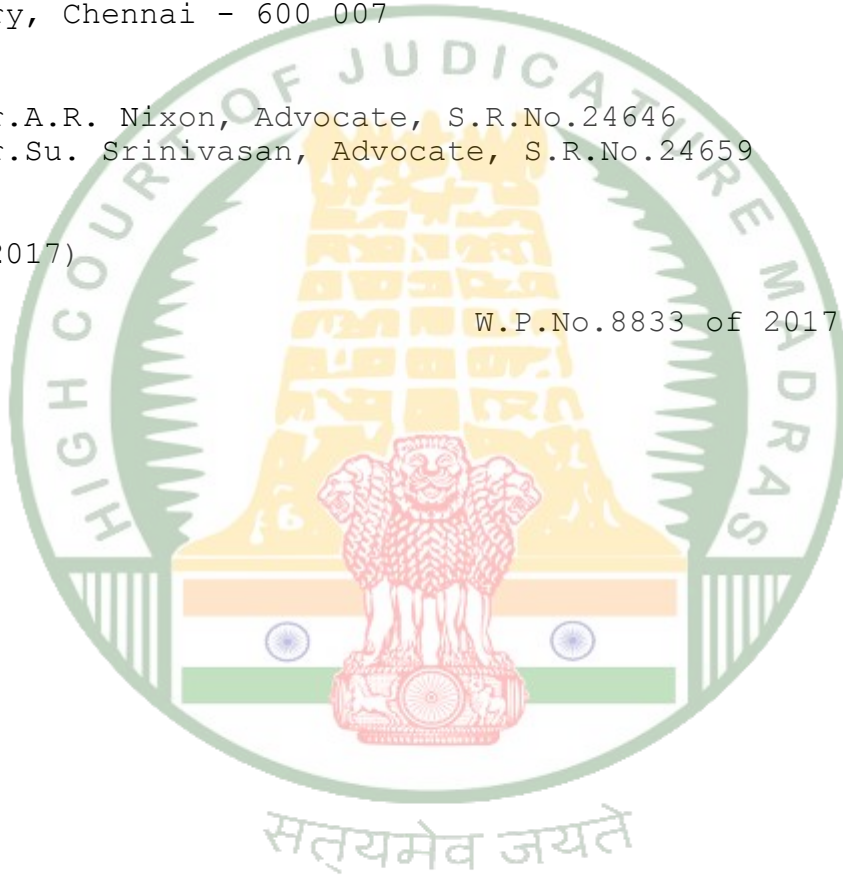
2 The Commissioner of Police
Vepery, Chennai - 600 007

+1cc to Mr.A.R. Nixon, Advocate, S.R.No.24646

+1cc to Mr.Su. Srinivasan, Advocate, S.R.No.24659

kgk (CO)
md(25/04/2017)

W.P.No.8833 of 2017



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