



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2017

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.24053 of 2017

and

W.M.P.(MD) No.20191 of 2017

Vishaka Badamchand (Minor)
(Represented by its Mother and
Natural Guardian Gayathri)

... Petitioner

-Vs-

The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent in Proceedings No.1700034-CPU-MDU dated 04.10.2017 and quash the same as illegal and consequently direct the respondent to re-issue a passport in respect of the file of the petitioner's daughter namely Vishaka Badamchand in respect of the file No.MD 1079951533717 dated 04.02.2017 within a time stipulated by this Court.

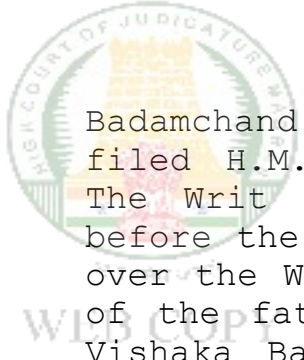
For Petitioner : Mr.S.T.Sasidharan Tamilkani

For Respondent : Mr.P.Subbiah
Central Government Counsel

O R D E R

The matter relates to re-issuance of passport for the writ petitioner/minor Vishaka Badamchand. The deponent of the affidavit is Gayathri.

2. Gayathri and Badamchand got married on 03.04.2005. The
<https://hcservices.ecm.certs.gov.in/hcservices/> Writ Petitioner Vishaka Badamchand was born to the said Gayathri and Badamchand. The marital relationship between Gayathri and



Badamchand has broken down. The Writ Petitioner's mother Gayathri filed H.M.O.P.No.385 of 2015 before the Family Court, Madurai. The Writ Petitioner's father has filed G.W.O.P No.27 of 2015, before the Family Court, Madurai, seeking guardianship and custody over the Writ Petitioner. An interim order was granted in favour of the father by the Trial Court on 12.10.2015. The mother of Vishaka Badamchand filed C.R.P.(MD).No.2295 of 2015 and interim stay has been granted on 15.10.2015.

3. The passport of the writ petitioner and her mother Gayathri got lost. The writ petitioner's mother lodged a complaint before the local police station. The said police on enquiry came to the conclusion that it cannot be traced out and has given a non-traceable certificate. With that the writ petitioner's mother moved the respondent for re-issuance of passport. The respondent re-issued the passport of the mother Gayathri, but did not re-issue the passport of the writ petitioner on the ground that there is an objection from the father. To this effect the respondent issued an order dated 04.10.2017.

4. I am of the view that there can be no impediment for mere re-issuance of the passport. Admittedly the writ petitioner Vishaka is with her mother. There is also an interim order in favour of the mother in C.R.P.(MD).No.2295 of 2015. In these circumstances, it is open to the father to workout his rights with regard to custody etc., before the family Court or this Court in the said Civil Revision Petition. The dispute between the mother and the father need not come in the way of re-issuance of passport. It is not as if the application is submitted for issuance of a fresh passport. On the other hand, mere re-issuance of passport is sought.

5. I, therefore, set aside the order dated 04.10.2017. The respondent is directed to re-issue the passport of the writ petitioner Vishaka Badamchand on or before 31.01.2018. It is made clear that the rights of the father namely Badamchand have not been adjudicated in any manner in the writ petition. This Writ Petition stands allowed as prayed for. No costs. Consequently, W.M.P.(MD) No.20191 of 2017 is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To

The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai.

+ 1 cc TO Mr.S.T.Sasidharan Tamilkani , Advocate in SR No. 94722
+ 1 cc TO Mr.P.Subbiah , Advocate in SR No. 94874

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AE/KKR/SAR2/25.01.2018/3P/4C

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