

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.197 of 2018
and
WMP.No.275 of 2018

Mrs.Radhika Saravanan
D/o.D.Parthasarathy

.. Petitioner

Vs.

1. The Regional Passport Officer
O/o. Regional Passport Officer
Rayala Towers, No.144, Anna Salai
Mount Road, Chennai-600 002.

2. The Commissioner of Police
Greater Chennai,
O/o. The Commissioner of Police
E.V.K.Sampath Road, Vepery,
Chennai-600 007.

3. The Inspector of Police
G3 Kilpauk Police Station
Kilpauk, Chennai-10.

4. The Deputy Commissioner of Police
Intelligence Wing
O/o. The Commissioner of Police
E.V.K.Sampath Road, Vepery,
Chennai-600 007.

5. The Inspector of Police

Central Crime Branch (Fake Passport Wing)

O/o. The Commissioner of Police

E.V.K.Sampath Road, Vepery,

Chennai-600 007.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of first respondent pertaining to impugned order passed in F.No.1700059_CPC_MAS/MA2070552221517 dated 22.12.2017 issued based on the petitioner's application for renewal of passport made in file No.MA2070552221517 dated 14.09.2017 and quash the same as illegal and arbitrary and consequentially direct the first respondent to renew petitioner's passport and issue the same within time stipulated by this Hon'ble Court.

For Petitioner : Mr.Adinarayana Rao

For Respondents : Mr.T.V.Krishnamachari

Senior Panel Counsel for R1

Mr.D.Suriyanarayanan

Additional Government Pleader

For R2 to R5.

ORDER

The petitioner is aggrieved against the order dated 22.12.2017, issued by the first respondent, wherein and whereby the petitioner was advised to obtain permission of the concerned Trial Court to travel abroad, in order to enable the first respondent's office to process her passport application.

2. The case of the petitioner is as follows:

The petitioner was married to one Saravanan on 18.11.2002 and out of the wedlock, she gave birth to a boy child on 21.05.2004. The child was studying in Chennai till 02.09.2015 and thereafter, the petitioner left to Dubai on the reason that her husband was working therein. The petitioner's husband coerced the petitioner to execute a settlement deed in his favour pertaining to her immovable properties and during her stay in Dubai, she was inflicted with burn injuries. On 26.02.2016, the petitioner along with her husband and minor child came to India. Her husband filed a false complaint against the petitioner in Crime No.634 of 2016 under Sections 341 and 324 IPC. The petitioner's husband gave the said complaint in order to twist the facts. The petitioner filed an anticipatory bail application before this Court in Crl.OP.No.14755 of 2016. On 14.07.2016, anticipatory bail was granted to the petitioner and her parents. In the meantime, the petitioner's husband took his son illegally under his custody. The petitioner filed OP.No.575 of 2016 for return of custody of minor child and an order was passed therein granting visiting rights to the petitioner. Since the petitioner's child wish to study in Dubai, the petitioner was given visiting rights in Dubai, in order to monitor the well being of the child. The third

respondent issued a look out notice on 22.07.2016, in spite of the fact that the petitioner had obtained an anticipatory bail on 14.07.2016. However, the said look out notice was subsequently, removed on 28.03.2017. The petitioner visited Dubai and filed a case in Dubai Court for maintenance. The petitioner's husband also filed a case for separation. Since the petitioner had to attend the criminal case in Chennai, she returned to Chennai and also applied for renewal of her passport before the first respondent. The case in Dubai was originally posted on 28.12.2017 for her appearance and again it posted to 28.01.2018. Therefore, the petitioner's passport has to be renewed by the first respondent, so as to enable the petitioner to visit Dubai and attend the Court proceedings therein.

3. The learned Senior Panel Counsel appearing for the first respondent submitted that in view of the pendency of a criminal case at Chennai in SC.No.301 of 2017 on the file of the VI Additional City Civil Court, Chennai, the claim of the petitioner could not be considered.

4. The learned Additional Government Pleader appearing for the respondents 2 to 5 also reiterated the above said contention.

5 Heard Mr.Adinarayana Rao, learned counsel appearing for the petitioner, Mr.T.V.Krishnamachari, learned Senior Panel Counsel appearing for the first respondent and Mr.D.Suriyanarayanan, learned Additional Government Pleader appearing for the respondents 2 to 5.

6. It is not in dispute that the petitioner and her husband are fighting with each other within this country as well as outside the country, by filing multiple cases against each other. Unfortunately, the minor child is caught in between these warring parents, as it is evident that they do not seem to be the caring parents. Now, the child is in Dubai, under the custody of his father / husband of the petitioner. Needless to say that as the mother, the petitioner has got every right to visit her son, moreover, when such right was conferred by this Court in OP.No.575 of 2016 dated 24.08.2016. It is also stated that a case regarding the custody of the child to the petitioner is pending in Dubai Court and therefore, the petitioner has to necessarily visit Dubai to take the custody of the child and also to attend the other Court proceedings. It is also seen that the look out notice issued against the petitioner was revoked in the month of March 2017. Hence, I do not think that the

respondents can have any difficulty in considering the petitioner's application for renewal of the passport, taking into consideration of peculiar facts and circumstances of the present case and the pathetic condition of the petitioner's child at Dubai. It is stated that there is a provision to consider the request of the petitioner for issuance of, atleast a temporary passport. In any event as the petitioner is already holding a passport, which is sought to be renewed, the first respondent has to consider the said request.

7. Considering all these aspects, this writ petition is disposed of, as follows:

- (a) The first respondent shall consider the request of the petitioner for renewal of the passport and issue the same atleast for a temporary period, as provided under relevant Statutes / Rules.
- (b) After completion of the Court proceedings, the petitioner is entitled to approach the first respondent and seek for permanent renewal as and when such necessity arises.
- (c) The first respondent shall pass appropriate orders as directed under Clause(a) of this order on or before

25.01.2018.

No costs. Consequently, connected miscellaneous petition is closed.

19.01.2018

Speaking/Non-speaking order

Internet : Yes/No

Index : Yes / No

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Note: Issue order copy on 19.01.2018

To

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K.RAVICHANDRABAABU,J.

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