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

+ W.P.(C) 10066/2018 and CM APPL. 39242/2018

NDIDI ENDURANCE EZEH AND ORS. Petitioners

Through: Counsel (appearance not given).

versus

UNION OF INDIA

..... Respondent

Through: Mr Anil Soni, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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17.07.2019

1. The petitioners have filed the present petition, *inter alia*, praying that the petitioner no.1 be granted a residential permit to reside in India. Petitioner no. 1 (a foreign national) is married to petitioner no.2 (an Indian Citizen) and petitioner nos. 3 and 4 are their children from the said marriage. Petitioners nos. 1 and 2 claim that their marriage ceremony was held on 07.05.2014 and the same was also registered on 27.04.2018.

2. In view of the averments made in the petition, on 11.02.2019, this court had observed as under and listed the petition for hearing today:

“7. According to the respondents, the petitioners’ request for a spouse visa cannot be acceded to, since petitioner no.1 was an illegal migrant at the time of his marriage on 07.05.2014. Mr Soni, learned counsel appearing for the respondents submitted that if petitioner no.1 goes back to his country and applies afresh for a spouse visa, the same would be considered in accordance with law.

8. It is seen that in terms of Section 7A(d) of the

Citizenship Act, 1955, a spouse of foreign origin of a citizen of India is entitled for an OCI Card, provided that his marriage is registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under the said section. In the present case, if the petitioner no.1's averments are correct, then his marriage with petitioner no.2 has subsisted from 07.05.2014 till date. It was also registered on 27.04.2018. *Prima facie*, the aforesaid condition is duly complied with. However, it is also noted that the applicant is also required to be subjected to security clearance by an appropriate authority."

3. Mr Soni, learned counsel appearing for the respondent states, on instructions, that the security clearance for the issuance of an OCI card for petitioner no.1 has been received from the Ministry of Home Affairs (Foreign Division). In this view, there is no impediment for petitioner no.1's application for an OCI card to be processed. He states, on instructions, that petitioner no.1's application for an OCI card is being processed. However, he points out that one of the pre-conditions is that the applicant should have a three months' valid visa for the said application to be processed. And, the petitioner's visa is valid only till 31.07.2019.

4. In the circumstances, petitioner no.1 is permitted to apply for an extension of his visa. It is directed that if such an application is found in order, petitioner no.1's application for extension of his visa shall be considered for three months and in the meantime, the respondent would process petitioner no.1's application for issuance of an OCI card in accordance with law.

5. In view of the above, no further orders are required to be passed in

this petition. Accordingly, the petition is disposed of leaving it open for petitioner no.1 to apply afresh, if the cause so arises.

6. The pending application is disposed of.
7. Order *dasti* under signature of Court Master.

JULY 17, 2019
RK

VIBHU BAKHRU, J