



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.11093 of 2021

and

W.M.P. (MD) .No.8703 of 2021

Nasreen Fathima

...Petitioner

Vs

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

2.Valliulla

3.Mr.Raja Mohammad

4.Shaik Rabika

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to issue passport to the petitioner's minor daughter namely Ahmara Rusdeen by incorporating the second respondent's name as the Surname of Ahmara Rusdeen in File No.MD106388669521.

For Petitioner	: Mr.Navaneetharaja.K
For R1	: Mrs.L.Victoria Gowri, Additional Solicitor General of India
For R3 & R4	: Mr.M.Jerin Mathew

ORDER

This writ petition has been filed for the issuance of Writ of Mandamus directing the first respondent to issue passport to the petitioner's minor daughter.

2. The case of the petitioner is that she and the second respondent got married on 09.12.2010 and they are residing at Saudi Arabia. They did not have a child and hence they decided to adopt the child of the 3rd and 4th respondents. The 3rd respondent is none other than the brother of the petitioner and they wanted to adopt the 3rd daughter of the 3rd and 4th respondents. Accordingly, the female child that was born on 09.05.2020 was adopted by the petitioner and the second respondent. The child is being taken care by the petitioner and the second respondent thereafter.



3. The petitioner and the 2nd respondent wanted to take the child to Saudi Arabia. Accordingly, they applied for a passport before the first respondent. In the application, the names of the petitioner and the 2nd respondent were shown to be the parents and this application was not entertained by the first respondent on the ground that there is no concept of adoption recognized by Muslim Law. The petitioner was informed that if at all the passport has to be issued, only the names of the natural parents namely 3rd and 4th respondents can be incorporated. Aggrieved by the same, the present writ petition has been filed before this Court seeking for an appropriate direction.

4. Heard Mr.K.Navaneetharaja, learned counsel for the petitioner, Mrs.L.Victoria Gowri, learned Additional Solicitor General of India appearing for the first respondent and Mr.M.Jerin Marhew, learned counsel appearing for the third and fourth respondents.

5.It is an admitted case that adoption is not recognized under the Muslim Law. Therefore, even if the petitioner and the second respondent are taking care of the child, they cannot be treated as adoptive parents under Muslim Law. The child will have to be recognized only through the natural parents who are the 3rd and 4th respondents in this writ petition. If at all the petitioner and the second respondent want the child to be recognized as an adopted child, they have to file an appropriate application before the competent Court under the Juvenile Justice (Care and Protection of Children) Act, 2015. They have to get necessary orders from the competent Court recognizing them as the adoptive parents. Only thereafter the petitioner and the 2nd respondent can apply for a passport in the name of the minor child by showing them as parents. Till then the first respondent cannot recognize the petitioner and the 2nd respondent as adoptive parents.

6. In view of the above, it is left open to the petitioner and the 2nd respondent to file an appropriate petition before the competent Court under the Juvenile Justice (Care and Protection of Children) Act 2015, and seek for declaring them as the adoptive parents. The Court before which, the application is filed by the petitioner and the second respondent shall consider the application on merits and in accordance with law and shall pass final orders within a period of three months from the date of filing of the application.

7. The petitioner and the 2nd respondent after getting appropriate orders from the competent Court, shall thereafter approach the first respondent for issuance of the passport in the name of the minor child by showing them as parents.

<https://hcservices.courts.gov.in/hcservices> This petition is disposed of accordingly. No costs.



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Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sbn

To:

The Passport Officer,
Regional Passport Office,
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LR (03.08.2021) 3P 2C