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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

31.10.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.24678 of 2022

Immanuvel Boomi ..Petitioner

Vs

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

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

3.The State, represented by
The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to issue a passport to the Petitioner on the basis of his passport Application in File No.MD1064595529922, dated 16.09.2022 by according necessary permission for travelling abroad as expeditiously as possible, within the time stipulated by this Court.

For Petitioner :Mr.R.Anand

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For Respondents 1 and 2 : Ms.L.Victoria Gowri
Asst. Solicitor General of India

For Respondent-3: Mr.B.Thanga Aravindh
Govt.Advocate(Crl.Side)

ORDER

The Petitioner has prayed for issuance of a Writ of Mandamus directing the first respondent to issue a passport to the Petitioner on the basis of his passport Application in File No.MD1064595529922, dated 16.09.2022 by according necessary permission for travelling abroad as expeditiously as possible, within the time stipulated by this Court.

2.Ms.L.Victoria Gowri, learned Assistant Solicitor General of India takes notice for the respondents 1 and 2 and Mr.B.Thanga Aravindh, learned Government Advocate(Crl.Side) takes notice for the third respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the Petitioner is that the Petitioner is having agricultural lands in and around Kariyapatti Taluk and also running a brick unit.The petitioner and his family member s converted to Christian religion and in the year 2014, a complaint was lodged by one Sundaram and based on the same, the third respondent had registered a criminal case in Crime No.69 of 2014 and after investigation, the case was referred as civil in nature and thereafter on the request of the complaint a charge

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sheet was filed and taken on file in C.C.No.75 of 2017, on the file of the learned Judicial Magistrate, Aruppukkottai and the complaint is that the Petitioner and his wife with the assistance of other accused person have taken away the property of the above Sundaram for the repayment of loan by charging exhoribtant interest. The petitioner has approached this Court with Crl.R.C(MD)No.392 of 2017 and thereafter the Petitioner had challenged the said proceedings by filing Crl.O.P(MD)No.17651 of 2017 and the same is pending.Inthe meanwhile, the said Sundaram died. When things are so, the Petitioner church and other Churches scheduled a meeting in the first week of Noveiber 2022.The Petitioner has applied for pasport by his application, dated 16.09.2022, for which, the application number as referred to above was assigned. In the meanwhile, the first respondent on 29.09.2022 sent a letter stating that issuance of passport cannot be considered in view of the pendency of the criminal case.The Petitioner's attempts to give explanation to the authorities ended in vain. Hence the Petitioner has filed this Writ Petition for the relief stated supra.

4.A perusal of the typed set of papers would reveal that order of the first respondent has been stayed by this Court on the ground that the case which was civil in nature has been given a criminal colour.The defacto complainant had sold his properties to the first and second Petitioners therein through two documents. The second respondent therein Sundaram gave a complaint as if he had only availed loan from

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the first petitioner therein and he was compelled to execute the subject document. Further the second respondent therein had not filed any civil suit for nullfying the transaction and for declaration as sham and nominal and had granted an order of interim stay. From the above it is seen that a case of civil in nature has been given a criminal colour and hence the respondents 1 and 2 have no impediment in issuing passport to the Petitioner.

5.The learned Assistant Solicitor General of India appearing for the rspondents 1 and 2 would submit that the authorities will take necessary steps to issue passport to the Petitioner based on his application within the time stipulated by this Court.

6.In view of the above, the respondents 1 and 2 are directed to issue passport to the Petitioner considering the application submitted by the Petitioner in this regard on 16.09.2022 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

7.With the above direction, the Writ Petition is disposed of. No Costs.

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Index : Yes/No

Internet:Yes/No

vsn

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V.BHAVANI SUBBAROYAN,J

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ORDER MADE IN

W.P(MD)No.24678 of 2022

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