



W.P.No.10272 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.10272 of 2020

and

W.M.P.Nos.12488 and 12489 of 2020

1. Mira Venugopal
Minor, aged 5 years old
Represented by her Mother and Natural Guardian,
Manju Kondaswamy Narayanaswamy,
Residing at Manchester Grand Apartments,
D025, M.G.Road, Avarampalayam,
Coimbatore – 641 006.
2. Madhav Venugopal,
Minor, aged 5 years old,
Represented by her mother and natural guardian,
Manju Kondaswamy Narayanaswamy,
Residing at Manchester Grand Apartments,
D025, M.G.Road, Avarampalayam,
Coimbatore – 641 006.

...Petitioners

Vs.

1. Union of India,
Represented by its Secretary to Government,
Ministry of Home Affairs,
North Block, Foreigners Division, OCI Cell,
Jai Singh Marg, Hanuman Road Area,
Connaught Place,
New Delhi – 110 001.



W.P.No.10272 of 2020

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2. The Bureau of Immigration,
Represented by Foreigner Regional Registration Officer (FRRO),
Shashtri Bhawan Annexe Building,
No.26, Haddows Road, Nungambakkam,
Chennai – 600 006.

3. Magesh Kumar Venugopal,
708 Blossom Bay lane, Apex, North Carolina-27523 USA.
(R3 impleaded vide order dated 21.06.2021 made in
WMP.No.18983 of 2020 in W.P.No.10272 of 2020) ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records of 2nd respondent comprised in the impugned order dated 04.03.2020 bearing reference number 'FRRO Chennai Ref.No.27732', quash the same as arbitrary,illegal, unconstitutional and consequently direct the 2nd respondent to register the petitioners as 'Overseas Citizen of India Card Holder' and issue appropriate certificate without insisting upon a 'No Objection Certificate' from the father of the petitioners.

For Petitioners : Mr.Cibi Vishnu

For Respondents : Mr.S.Diwakar, CGSPC for R1 & R2

Mr.T.R.Rajagopalan, Senior Counsel
for M/s.V.Anuradha for R3

ORDER

This writ petition is filed seeking for issuance of a writ of certiorari to quash the order passed by the 2nd respondent dated 04.03.2020 bearing



W.P.No.10272 of 2020

reference number 'FRRO Chennai Ref.No.27732' and consequently direct the 2nd respondent to register the petitioners as 'Overseas Citizen of India Card Holder' and to issue appropriate certificate without insisting upon a 'No Objection Certificate' from the father of the petitioners.

2. The case of the petitioners is that one Manju Kondaswamy Narayanaswamy married one Magesh Kumar Venugopal on 22.08.2005. Out of the said wedlock, the petitioners (minors) were born in United States of America. The mother of the petitioners is a citizen of India. Due to the matrimonial dispute, the petitioners' and their mother returned to India in the year 2016 and approached the family Court Coimbatore seeking divorce by filing a petition in HMOP NO.1460 of 2016. Subsequently, the petitioners' mother filed another petition in GWOP No.1461 of 2016, seeking to declare her as guardian of her minor children. Seeking visitation rights to the petitioners' father, he filed an interim application in I.A.No.409 of 2016 in GWOP No.1461 of 2016. The family Court vide order dated 15.10.2019 directed the petitioners father to visit the petitioners via Skype. Seeking overseas citizen of India (in short 'OCI') Card for the petitioners, the petitioners' mother made an application dated 17.02.2020 before the



W.P.No.10272 of 2020

second respondent, however, the same was rejected by the second respondent vide order dated 04.03.2020 on the ground that the petitioners mother failed to produce No Objection Certificate from the petitioners father. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioners submit that admittedly the HMOP No.1460 of 2016 and GWOP No.1461 of 2016 are pending before the family Court, Coimbatore between the petitioners' mother and father. However, the third respondent is residing in United States of America and the petitioners and their mother are residing in Coimbatore, India. Since the petitioners are citizens of America, they have to necessarily obtain OCI card to reside in India. Though the petitioners are eligible to be registered as an Overseas Citizen of India Card Holders per Section 7A (1) (c) of the Citizenship Act, 1955, however, the second respondent, mechanically rejected the application made by the petitioners mother seeking OCI card to the petitioners on the ground that No Objection Certificate from both the parents is required for any OCI related services which is *per se* unsustainable. Hence, he prayed to quash the impugned order dated 04.03.2020, passed by the second respondent. He further submits, on



W.P.No.10272 of 2020

instructions that, in so far as the visitation rights are concerned the petitioners' mother has no objection to issue visitation rights as sought for by the third respondent.

4. The learned senior counsel appearing for the third respondent submits that the third respondent has no serious objection for issuing Overseas Citizen of India Card to the petitioners alone. He further submits that since the children of the third respondent is in India, he sought permission of this to grant visitation rights to the third respondent to see his children.

5. Heard learned counsel appearing on either side and perused the materials placed on record.

6. In view of the consent expressed by learned counsel appearing for the petitioners and the third respondent, this Court without going into the merits of the case, directs the first and second respondents to issue Overseas Citizen of India card holder to the petitioners (minors) within a period of two (2) weeks from the date of receipt of a copy of this order. The family Court



W.P.No.10272 of 2020

Coimbatore is directed to dispose of the petitions filed by the petitioners' mother in HMOP No.1460 of 2016 and GWOP No.1461 of 2016 within a period of six months from the date of receipt of a copy of this order. This Court grants visitation rights to the third respondent to see his children and the prior date shall be intimated to the petitioners' mother.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2023

(rap)

NCC : Yes/ No

Speaking Order : Yes/ No

Index : Yes/ No

To

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Union of India,
Ministry of Home Affairs,
North Block, Foreigners Division, OCI Cell,
Jai Singh Marg, Hanuman Road Area,
Connaught Place,
New Delhi – 110 001.



W.P.No.10272 of 2020

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W.P.No.10272 of 2020

M.DHANDAPANI, J.

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W.P.No.10272 of 2020

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