



W.P.No.30175 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.30175 of 2022
and W.M.P.No.29611 of 2022

- 1.Sandya Priyadarsini
- 2.Manivanna Sudhevan Kirithine (Minor)
- 3.Manivanna Sudhevan Sathvika (Minor)

(Petitioners 2 and 3 rep. by
their mother and natural guardian
Ms.Sandya Priyadarsini

... Petitioner

Vs.

1.The Regional Passport Officer
1st Floor, Corporation Commercial Complex
Opp. Thandumariamman Koil, Avinashi Road
Coimbatore 641018

2.K.N.Manivannasudhevan

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the email dated 28.07.2022 of the 1st respondent passport officer



W.P.No.30175 of 2022

and quash the same and consequently, direct the 1st respondent to renew the passport of 2nd and 3rd petitioners vide file Nos.CB1074047114922 and CB1074046610122 within the time prescribed by this Court.

For Petitioner : Mr.S.Vedavel

For Respondents : Ms.P.J.Anitha, CGSC - R1
Mr.N.Manoharan - R2

ORDER

The petitioners 2 and 3 herein are minor children born to the 1st petitioner and the 2nd respondent. Their parents are busy litigating on issues of matrimonial discordance atleast in nine different litigations. While the parents are busy litigating, the children are stranded in the cross wire and now they have approached this Court through the mother for a direction to the passport authority, the 1st respondent herein for renewal of their passport. The passport authority vide email dated 28.07.2022 has directed the 1st petitioner to produce an N.O.C. from the Court or Annexure - D, duly signed by the 2nd respondent to enable him to renew the passport for the petitioners 2 and 3. This is now under challenge.



W.P.No.30175 of 2022

2.Learned counsel for the petitioner submits that the scheme of the Passport Act and Rules made thereunder has visualised the situation of separated but not divorced parents, and has prescribed a form in Annexure - C to the Passport Rules, 1980 and in terms whereof an affidavit needs to be provided. The petitioners submit while it is Annexure - C that is applicable to the case, the passport authority insists on an affidavit under Form-D.

3.Learned counsel for the passport authority has made a statement on written instruction that there are litigations for custody of the children are involved, to be precise G.W.O.P.No.1753 of 2022 on the file of Principal Family Court, Coimbatore.

4.Learned counsel for the 2nd respondent submitted on instructions that, if the passports are renewed then the children would leave the country.

5.There are three issues:

a) the children are not chattel but living citizens, who are entitled to all the



W.P.No.30175 of 2022

fundamental rights as any other citizens. It is their right to obtain the passport and that cannot be denied merely their parents are estranged.

b) pendency of a litigation for custody is not the concern of the passport authority and it is a concern of the concerned civil court, which will resolve the point. The responsibility of the passport authority is not required to travel beyond the Passport Act and the Rules made thereunder.

c) Turning to the objection of the 2nd respondent. It is for him to approach the Court in one of the many cases that are pending between him and the 1st petitioner to seek appropriate remedy and not for this Court to interfere.

6.The 1st respondent is therefore directed to renew the passport for petitioners 2 and 3, if the application and other papers are in order within a period of eight (8) weeks from the date of receipt of a copy of this Order. He is further directed to confine his enquiry within the frame work of



W.P.No.30175 of 2022

Passport Act and the Rules made thereunder and not to entertain any facts that fall outside it.

7.This writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

28.07.2023

kas

Index : yes / no

Neutral citation

To

The Regional Passport Officer
1st Floor, Corporation Commercial Complex
Opp. Thandumariamman Koil, Avinashi Road
Coimbatore 641018



WEB COPY



W.P.No.30175 of 2022

N.SESHASAYEE, J.
kas

W.P.No.30175 of 2022
and W.M.P.No.29611 of 2022

28.07.2023