



W.P.(MD)No.13367 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD)No.13367 of 2023

Nisha

... Petitioner

Vs.

1.The Union of India,
Rep. By its Principal Secretary to Government,
Ministry of External Affairs,
Shastri Bhavan, New Delhi.

2.The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Passport Office, Bharathi Ula Veethi,
Race Course Road,
Madurai – 625 001.

3. The Inspector of Police,
Colachel Police Station,
Kanyakumari District.

4. The Ambassador,
Consulate General of India,
Indian Embassy. B-1, Diplomatic Quarter, Post Box No.94387,
Riyadh-11693, Saudi Arabia,

... Respondents



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(R4 is impleaded vide Court order dated 13.06.2023 in W.M.P(MD) No.11609 of 2023 in W.P(MD)NO.13367 of 20023 by CVKJ)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus directing the second respondent to issue the renewal passport of the petitioner's husband Kumar Raj filed renewal Application No.23-2000322782.

For Petitioner	: Mr.R.Russel Raj
For R3	: Mr.N.Muthu Vijayan Special Government Pleader
For R1	: Mr.K.Govindarajan Deputy Solicitor General of India
For R4	: Mr.C.Karthick

ORDER

This Writ Petition has been filed in the nature of mandamus seeking a direction to the first respondent, the Regional Passport Officer, Madurai, to issue renewal passport of the husband of the petitioner, bearing No. L0017293 consequent to renewal application No.23-2000322782.

2. The husband of the petitioner, Kumar Raj is working in a private concern at Riyadh, Saudi Arabia and he is the holder of Indian passport



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bearing No.L0017293, which has expired on 25.02.2023. He is also an accused in First Information Report in Crime No.67 of 2020 registered by the third respondent for the offences under Sections 294(b), 323, 506(1) IPC. After completion of investigation, final report had been filed and taken cognizance as C.C.No.160 of 2022 by the learned Judicial Magistrate, Eraniel. The husband of the petitioner necessarily has to come back to India to face trial. However, since his passport has expired, he is little hesitant to approach the authorities in Riyadh, Saudi Arabia as he is staying there with an expired passport.

3. The learned counsel for the petitioner relied on an order of a learned single Judge dated 21.09.2022 in **W.P(MD)No.22222 of 2022** in **S.Muniasamy Vs. the Union of India, New Delhi and 2 others**. Even in that case, the son of the petitioner therein was facing trial in a criminal court but was staying in Kuwait. After considering the entire issue, the learned single Judge had finally issued the following directions:

"11.Taking into consideration the facts and circumstances of the case and also in order to strike a balance to ensure that the Passport is renewed for a limited period and the petitioner is



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also permitted to take necessary steps to clear himself from the criminal case, this Court is inclined to allow the Writ Petition with the following directions:-

- (a) The petitioner is directed to make a representation to the Consulate General of India, Indian Embassy at Abudapy along with a copy of this order;
- (b) Immediately on receipt of such representation, the Passport of the petitioner shall be re-issued/renewed for a period of two years;
- (c) On such re-issuance/renewal, the petitioner shall come over to India and take immediate steps to participate in the criminal proceedings and work out his remedy and defend himself in the case;
- (d) The petitioner shall also file a memo before the concerned Court, where the criminal case is pending and bring to the notice of the said Court, the orders passed in this writ petition; and
- (e) If in case the criminal case does not come to an end within the period for which the passport has been re-issued/renewed, the petitioner shall get the necessary permission only from the concerned Court in line with the notification issued by the Government of India through the Ministry of External Affairs in G.S.R.298(E) dated 14.04.1976".



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4. In the instant case, on hearing the facts, this Court had impleaded the Ambassador, Consulate General of India, Indian Embassy. B-1, Diplomatic Quarter, Post Box No.94387, Riyadh-11693, Saudi Arabia, as the 4th respondent. The 4th respondent had addressed a communication to the husband of the petitioner wherein it had been stated as follows:

"We cannot grant your passport unless we receive Court permission order for short validity passport, otherwise you can applied for Emergency certificate (EC)".

5. Thus, it is seen that the appropriate procedure for the petitioner to apply for emergency certificate to come back to India and answer any question raised by the respondents 1 and 2 relating to the criminal case which has been registered against him and give necessary undertaking that he would appear before the criminal court and ensure his participation during the criminal trial.

6. The learned counsel for the petitioner has stated that if the husband of the petitioner applies for an emergency certificate as stated above he may not be able to go back to Riyadh. The primary concern to get renewal of the



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passport and to attend the criminal case. The issue of going back to Riyadh depends upon the result of the criminal case. The petitioner's present need is to get renewal of passport and come back to this country and attend the criminal case and endeavour to get an order of acquittal by contesting in the criminal case.

7. Placing the obligation of the petitioner herein and also affirmation of the aforementioned direction given by the learned single Judge, this Writ Petition is disposed of. No costs.

22.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM

Note: Issue order copy on 26.06.2023



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To,

1.The Union of India,
Rep. By its Principal Secretary to Government,
Ministry of External Affairs,
Shasthri Bhavan,
New Delhi.

2.The Regional Passport Officer,
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C.V.KARTHIKEYAN, J.

CM

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22.06.2023