



W.P.(MD).No.16129 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **24.07.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD).No.16129 of 2023
and W.M.P(MD).No.13516 of 2023

P.R.Thilaga Durga Lakshmi

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
No.13, South Bypass Road,
Xavier Colony, Tirunelveli,
Tamil Nadu-627 005.

2.G.Sundar

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to re-issue passport to the petitioner's minor daughter pursuant to her passport application bearing reference No.23-1007376447 in file No.MD2075480665523 submitted on 13.06.2023.

For Petitioner : Mr.N.Dilipkumar

For Respondents :Mr.S.Karthick
Central Government Standing Counsel
for R1
No-appearance for R2



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ORDER

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This Writ Petition has been filed seeking for a direction to the first respondent to re-issue the Passport to the petitioner's minor daughter based on her application dated 13.06.2023.

2. The petitioner is the mother of one Meeyazhkavi, who is aged about 5 years and studying in International Indian School at Abudhabi. The petitioner is working at Abudhabi. The said Meeyazhkavi was born to the petitioner and the second respondent, out of wedlock of the year 2014. There was a misunderstanding between them and therefore, the petitioner has filed a petition seeking divorce before the Principal Subordinate Court, Eraniel, in H.M.O.P.No.55 of 2018 and the same was decreed in favour of the petitioner on 02.03.2019. Thereafter, she filed G.W.O.P.No.7503 of 2022 before the Family Court, Nagercoil. Since the second respondent has remained *exparte*, the decree is yet to be passed. In the meantime, the Passport of the minor child is going to be expired on 07.08.2023. Therefore, the petitioner has submitted an application for re-issuance of Passport on 13.06.2023. However, the same has not been



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considered by the first respondent stating that the biological father of the minor child has not given consent for the same.

3. The learned counsel appearing for the petitioner, by relying upon Schedule III of the Passports Rules, 1980, submits that as per Column-16, at the time of applying the Passport for the minor child, the application can be made by both or either of the parents; In the event the parents are judicially separated, a sworn affidavit before a Magistrate stating the facts of the case along with documentary proof is to be submitted as per Annexure “C”; In case, the applicant parent is not in a position to get consent of the other parent for whatever reason, the parent applying for the Passport of the minor may sign the Form and submit a sworn affidavit as per Annexure “G” stating the facts and circumstances of the case along with the application; The affidavit should also state that in case of a Court case, he/she would be responsible and not the Passport Office; In such cases where only one parent is applying, the physical appearance of the child may be requested to ensure that the applicant parent has the actual custody of the child.



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4. The learned counsel appearing for the petitioner, by referring to the said provision, submits that the petitioner has already filed a sworn affidavit as per Annexure “C”.

5. In response to the same, the learned Central Government Standing Counsel appearing for the first respondent submits that the petitioner has not filed the sworn affidavit as per Annexure “G” and has filed the sworn affidavit as per Annexure “C” only. Therefore, the application of the petitioner dated 13.06.2023 has not been considered so far.

6. In view of the above, the petitioner is directed to submit a sworn affidavit in the prescribed format as per Annexure “G” to the first respondent within a period of 10 days from the date of receipt of a copy of this order and on receipt of the same, the first respondent shall proceed with the application of the petitioner dated 13.06.2023 and ensure that the minor is in the custody of the petitioner and issue Passport within a period of two weeks from thereon in accordance with the Passport Rules, 1980.



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7. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

24.07.2023

Index: Yes/No
Internet: Yes/No
ssb

To

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B.PUGALENDHI, J.

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