



WEB COPY



W.P.No.30456 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25/10/2024

C O R A M

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

W.P.No.30456 of 2023

S. Dhivya

...

Petitioner

Vs

1. Union of India

through the Foreigner's Regional Registration Officer
(FRRO)

Ministry of External Affairs

No.26 Shastri Bhawan Annexe Building

26 Haddows Road, Nungambakkam

Chennai 600 006.

2. Ministry of Home Affairs

through its Secretary

Foreigner's Division

Major Dhyan Chand National Stadium

India Gate Circle

Delhi 110 001.

3. The Director General of Police

Santhome

Chennai 600 004.

...

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India
praying for the issuance of a writ of mandamus by protecting the petitioner



W.P.No.30456 of 2024

and directing the first respondent not to take any coercive action against the petitioner until the daughter of the petitioner is issued renewed passport as per the directions of this Court in W.P.No.14733 of 2024 and also gets her passport renewed from Srilankan Embassy.

For petitioner ... Mr.T.Karthikeyan

For respondents ... Mr.R.Sidharth
for R.R.1 and 2

- - - - -
ORDER

This writ petition has been filed to direct the first respondent not to take any coercive action against the petitioner until the pass port of the daughter of the petitioner is renewed.

2. The case of the petitioner is that the petitioner is a citizen of Srilanka holding Srilankan Passport No.N5143022 and married to Mr.Ranjithnarmadhan, who is an Indian citizen, holding Passport No.N3315188. Their marriage was registered in the year 2024. Since there were some misunderstanding between the petitioner and her husband, petitioner initiated divorce proceedings vide H.M.O.P.No.81 of 2020 before the learned Subordinate Judge, Dharapuram, Tiruppur District and the same was allowed ex parte.



W.P.No.30456 of 2024

WEB COPY

3. It is further stated in the affidavit that their daughter is a citizen of India, as per Section 3 (1) (b) (ii) of the Citizenship Act, 1955. The petitioner has also initiated maintenance proceedings in M.C.No.169 of 2021 and the same is pending before the learned Judicial Magistrate, Dharapuram, Tirupur District. The main grievance of the petitioner is that she could not renew VISA because of the matrimonial disputes and during the COVID period, visa extension was granted by the Government of India on gratis basis. When the petitioner had applied for the renewal of her daughter's passport, on 8/5/2024, the same was rejected by the second respondent whereas the petitioner's ex-husband was not willing to sign the necessary documents to obtain the passport for the petitioner's daughter. Hence filed a writ petition in W.P.No.14733 of 2024 to direct the respondents to renew the passport of the petitioner's daughter. Vide, order, dated 24/9/2024, this Court has allowed the writ petition and directed the Regional Passport Officer, Coimbatore to issue passport in favour of the petitioner's child, within four weeks notice from the date of receipt of copy of the said order. Till date, the authorities have not renewed the passport. Being aggrieved, the petitioner has come forward with the present writ petition.



W.P.No.30456 of 2024

WEB COPY

4. Heard Mr.T.Karthikeyan, learned counsel for the petitioner and Mr.R.Sidharth, learned counsel for the respondents 1 and 2.

5. The learned counsel appearing for the petitioner submitted that the petitioner is not willing to stay in India, without a valid VISA, but the situation is so predicament that the petitioner cannot exit the Country leaving behind her minor daughter back in India. Moreover, the petitioner faces a threat from the local Police which will cause an irreplaceable damage to the petitioner's minor daughter.

6. Learned counsel appearing for the respondents 1 and 2 submitted that eventhough the petitioner's daughter is an Indian by birth, she is a minor and hence, consent of her father, is necessary to obtain Indian passport. Hence, the application of the petitioner was not accepted by the respondents.

7. Perused the materials available on record.



W.P.No.30456 of 2024

8. Since the minor daughter was born in India and her domicile of origin is India and when her biological father continues to be an Indian citizen, objection raised by the respondents in issuing a passport, is unsustainable. In such a view of the matter, this Court is of the considered view that merely because one parent acquired the citizenship of another Country or if one parent is not a citizen of India, will not by itself, disentitle a child born in India and whose other parent is an Indian citizen to be issued with an Indian passport.

9. In the result, this writ petition is disposed of, directing the first respondent to process the application filed by the petitioner, based upon the order, dated 3/6/2024, passed in W.P.No.14733 of 2024, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. No costs.

25/10/2024

mvs.

Index: Yes/No
NCC: Yes/ No



WEB COPY



W.P.No.30456 of 2024

M.DHANDAPANI, J

mvs.

W.P.No.30456 of 2024

25/10/2024



W.P.No.30456 of 2024

W.P.No.30456 of 2024

WEB COPY

M.DHANDAPANI, J.

This matter is listed today under the caption "for being mentioned".

2. Heard both sides.

3. Considering the submissions made by both sides, paragraph No.(9) of the order dated 25.10.2024 passed in W.P.No.30456 of 2024 by this Court shall be replaced as follows:-

"9. In the result, this Writ Petition is disposed of, directing the first respondent not to take any coercive action against the petitioner for a period of three months from the date of receipt of a copy of this order. However, the petitioner is directed to obtain Passport from Sri Lanka Authority within a period of three months from the date of receipt of a copy of this order"



WEB COPY



W.P.No.30456 of 2024



WEB COPY



W.P.No.30456 of 2024

M.DHANDAPANI, J.

ssb

4. Registry is directed to carry out necessary correction in the order and issue fresh order copy.

22.11.2024

ssb

Note: Issue order copy on **25.11.2024**.

W.P.No.30456 of 2024