



W.P(MD)No.20823 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.11.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.20823 of 2024

M.Ranjitha

... Petitioner

Vs.

1.The Passport Officer,
O/o.Regional Passport Officer,
13, Mukesh Towers,
South Bye-pass Road,
Xavier Colony,
Tirunelveli District – 627 005.

2.Karthick
*(R.2 is impleaded vide order of
this Court dated 17.10.2024 in
W.M.P(MD)No.19890 of 2024)*

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to issue passport to the petitioner's minor daughter Dhamini, by considering the application submitted before the first respondent on 05.06.2024.



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For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.R.Senthil Kumar
Central Government Standing Counsel
for R.1

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to direct the first respondent to issue passport to the petitioner's minor daughter Dhamini, by considering the application submitted by the petitioner before the first respondent on 05.06.2024.

2.Heard the learned counsel appearing for the petitioner, the learned Central Government Standing Counsel appearing for the first respondent and carefully perused the entire materials available on record.

3.The marriage between the petitioner and one S.Karthikeyan was solemnized as per Hindu rites and customs and they were blessed with a female child named as Dhamini who was born on 06.01.2019. In due course of time, due to the indifferences which crept in the matrimonial



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life of the petitioner, a decree of divorce on the ground of mutual consent by dissolving the marriage between the petitioner and her husband S.Karthikeyan was granted by the learned Sub-Ordinate Judge, Poonamallae on 04.11.2016. The minor daughter is under the care and custody of the petitioner from her birth and she is residing with the petitioner at Kovilpatti. Recently, the petitioner got placement with Abdul Wahid Marketing Management at Dubai, UAE, following which she has obtained a passport from the first respondent and moved to Dubai, UAE on 15.09.2023. The minor child is with the petitioner's mother. For the purpose of bringing the minor child along with the petitioner to Dubai, UAE during holidays and permanently in future, the petitioner made an application to the first respondent seeking to issue passport to her minor daughter Dhamini. However, the same came to be rejected by the first respondent on the ground that the consent of the minor girl's father has not been obtained.

4.In view of the same, the petitioner forwarded a fresh application with annexure - 'C' which is directed to be submitted by the parents / guardians for issuance of passport to minor, since one of the parents did



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not give consent on 05.06.2024. However, the same is kept pending without disposal by the first respondent and hence this writ petition came to be filed.

5.The petitioner had made a fresh application along with annexure – 'C', to be specific along with the specimen declaration by her for issuance of passport to the minor, since one parent has not given consent, only in terms of the instructions from the Regional Passport Office.

6.The learned Central Government Standing Counsel appearing for the first respondent submitted that, the petitioner's application cannot be processed unless and until the minor's father has given a consent for issuance of passport to the minor child. In view of the same, this Court *suo motu* impleaded Mr.Karthick, S/o. Srinivasan, Residing at Door No. 10/54, Annamalai Nagar, I Street, West Mambalam, Mettupalayam Market, Chennai – 600 033, that is, the petitioner's estranged husband as the second respondent. Private notice was also taken and the same has duly been served on the impleaded second respondent. However, he did not turn up today when the matter came up for hearing.



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7. Though in earlier times there was ambiguity regarding the procedure to be adopted when consent of both the parents could not be obtained while issuing the passport to the minor child, specific guidelines in this regard has been incorporated in the passport manual later. It has provided that if an affidavit is filed in the form of annexure - 'C' of schedule III of the Passport Rules, 1980, in that case, the passport issuing authority can issue a passport to a minor child without insisting upon the consent of both the parents. Even if one of the parents refuse to give consent, the passport issuing authority is duty bound to issue the passport to a minor, provided annexure - 'C' is submitted. A similar case has already been dealt with by this Court in W.P(MD)No.5652 of 2022, dated 15.07.2022, directing the first respondent to issue passport to the minor child therein and the relevant portion of the same is extracted as follows:

“5.The Passport Seva of Ministry of External Affairs, Government of India has issued brochure containing frequently asked questions and answers thereto. Question Nos. 4 and 8 are as follows:-

“Q4: Single separated parent

A : In case one married parent has terminated the



relationship with the other parent without a formal divorce, declaration in the formal of Annexure 'C' may be accepted from the parent having the custody of the child.

Q8: Annexure 'C' and 'D': Their applicability and differentiation:

A : 1. Annexure 'C': *This declaration is applicable in cases where for any reason married parent applying for passport for the minor child is not able to obtain the consent of the other parent for obtaining passport for the child. The reasons also include wilful denial of consent by the estranged parent; desertion; absence of communication between the divorced/not divorced but separated parents, ex-parte divorce proceedings etc., but exclude cases where both the parents are involved in divorce proceedings in which case, the permission of the court or consent of both the parties in Annex 'D' is required.*

6. The official respondents cannot be faulted for insisting on obtaining consent from the third respondent. But the petitioner cannot be left without remedy, when the third respondent does not want to give consent. Now it is for the Court to take a call in the matter. It is seen that the child is with the petitioner. GWOP filed by the third respondent has been dismissed. It is



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true that the third respondent was given visitation rights. But the period had expired in November 2020 itself. In these circumstances, interest of justice requires that the petitioner's child/Prajan.M is issued with passport. While I am not setting aside the order impugned in the writ petition, I direct the official respondents to issue passport to the petitioner's child namely, Prajan.M by indicating the mother as the single parent of the child within a period of three weeks from the date of receipt of a copy of this order subject to fulfilment of the usual formalities.”

In yet another case in W.P.No.30175 of 2022 dated 28.09.2023, this Court has passed a similar order and the relevant portion is extracted as follows:

“5. ...

a) the children are not chattel but living citizens, who are entitled to all the fundamental rights as any other citizens. It is their right to obtain the passport and that cannot be denied merely their parents are estranged. ”

In view of the same, considering the fact that the petitioner has already filed a fresh application along with annexure - 'C' of schedule III of the Passport Rules, 1980, along with the application for passport for the minor daughter, this Court hereby direct the respondents to consider the



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petitioner's application positively without insisting for the no objection from the second respondent, father of the minor child, taking into consideration the fact that the petitioner's husband has failed to appear before this Court despite notice served on him in this regard. The second respondent's absence would amount to his grant of “No objection” and the first respondent shall positively consider the petitioner's application and issue passport to the petitioner's minor child within a period of four weeks from the date of receipt of a copy of this order.

8.This Writ Petition stands disposed of. There shall be no order as to costs.

14.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

The Passport Officer,
O/o.Regional Passport Officer,
13, Mukesh Towers,
South Bye-pass Road,
Xavier Colony, Tirunelveli District – 627 005.

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L.VICTORIA GOWRI, J.

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