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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.27526 of 2024

S.Sivakumar ... Petitioner

Vs.

1.The Regional Passport Officer,
O/o. The Regional Passport Office,
Bharathi Ula Road,
Race Course Road,
Madurai-625 002.

2.The Superindentent of Police,
Anti Land Grabbing Cell,
Cuddalore District,
Cuddalore.

3.The Inspector of Police,
Anti Land Grabbing Cell,
Cuddalore District,
Cuddalore.

4.The Inspector of Police,
Thiruppapuliyur Police Station,
Cuddalore. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 1st respondent to re-issue a new passport to the petitioner based on

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his application for issuance of Indian Passport dated 01.10.2024 in file No.MD1076989184524 on the file of the 1st respondent.

For Petitioner : Mr.M.Chellapandian

For R-1 : Mr.K.Govindarajan,
Deputy Solicitor General of India

For R-2 to R-3 : Mr.K.Gnanasekaran,
Government Advocate,
(Criminal side)

ORDER

By consent of both the parties, this writ petition is taken up for final hearing at the admission stage itself.

2.This writ petition has been filed to direct the 1st respondent to re-issue a new passport to the petitioner based on his application for issuance of Indian Passport dated 01.10.2024 in file No.MD1076989184524 on the file of the 1st respondent.

3.Heard the learned counsels on either sides and carefully perused the materials available on record.

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4.The petitioner has applied for re-issuance of a passport before the 1st respondent in application No.MD1076989184524. The 1st respondent issued a notice dated 02.08.2023 to the petitioner requiring to give clarifications / explanations regarding the pending criminal cases against the petitioner. The petitioner had given his explanation in person before the 1st respondent office that that the crime in crime No.524 of 2017 registered against him is still in the stage of FIR and the other case is Cr.No.14/2014 which has been filed by the 3rd respondent which has culminated in laying a charge sheet in CC.No.166/2023 on the file of the Judicial Magistrate Court No.III, Cuddalore. Hence, the petitioner filed W.P.(MD)No.23066 of 2023 before this Court seeking to re-issue a passport and this Court by an order dated 25.09.2023 directed the respondent authority to issue a temporary passport. Accordingly, the 1st respondent had issued a passport for a period of six months from 27.12.2023 to 26.06.2024. Thereafter, the petitioner had applied for re-issuance of a passport before the 1st respondent on 01.10.2024. Since the same was not acted upon, the present writ petition came to be filed.

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5.The petitioner is given liberty to move the trial Court for the relief now sought for. As and when such miscellaneous petition is filed, it shall be numbered and disposed of within a period of three weeks thereafter. The learned trial Judge shall bear in mind that right to travel abroad is a fundamental right. The petitioner's career and avocation may be at stake if he is denied the right to go abroad. Therefore, the trial Court unless there are extraordinary circumstances shall not deny relief. Of course, the period of validity of passport will have to be restricted. It is also open to the trial Judge to stipulate appropriate conditions to ensure that the prosecution is not stalled on account of the petitioner's absence from India. If necessary, the applicant can be directed to file an application under Section 228 of BNSS, 2023 by executing a special vakalat.

6.Based on the order passed by the trial Court, the petitioner shall move the jurisdictional regional passport officer who shall dispose of the petition-mentioned application in terms of the said order.

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7.The writ petition is allowed on these terms. There shall be no order as to the costs.

19.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml
To

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L.VICTORIA GOWRI, J.

Sml

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