

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9843 OF 2025

1. Jiten Rameshchandra Shah
2. Mona Jiten Shah ...Petitioners

Versus

1. M/s. Shah Tokarshi Keshavji and Co.
2. M/s. Rusam Developers Pvt. Ltd. ...Respondents

WITH

WRIT PETITION NO. 9845 OF 2025

1. Jiten Rameshchandra Shah
2. Mona Jiten Shah ...Petitioners

Versus

1. Mukesh Shantilal Mamaniya
2. M/s. Rusam Developers Pvt. Ltd. ...Respondents

Mr. Kamlesh Mishra, for the Petitioners.

Miss. Shraddha Chheda, for Respondent No.1.

CORAM: N. J. JAMADAR, J.

DATED: 30th SEPTEMBER, 2025

JUDGMENT:-

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsel for the parties, heard finally.

2. The petitioners - original defendants take exception to the orders dated 30th June, 2025, passed by the learned Judge, City Civil Court, Greater Mumbai, in Notice of Motion of Motion No.3038 of 2025, in SC Suit No.1481 of 2024 and Notice of Motion No.3039 of 2025 in Short Cause Suit No.742 of 2025,

whereby the learned Judge granted permission to the Petitioners to renew their respective Passports for the period of one year only.

3. Though the litigation between the petitioners and respondents – original Plaintiffs has a chequered history for the purpose of the determination of these petitions the bare minimum facts can be stated as under:

3.1 The respondents – plaintiffs were carrying on business from Shop Nos.1, 2 and 3 on the ground floor and Shop No.101 on the first floor of the building known as “Chheda Cottege”, Vile-Parle, Mumbai. The petitioners acquired the said property. On 31st December, 2013, the petitioners executed two registered agreements for permanent alternate accommodation with the plaintiffs, thereby agreeing to provide shops in the proposed new building.

3.2 Asserting breach of the stipulations in the said agreements, the respondents instituted suits seeking a declaration that, the said agreements were valid, subsisting and binding on the defendants and their successors in interest, and for a decree of specific performance and the consequential reliefs. As the petitioners did not comply with the orders of the Court, bailable

warrants came to be issued against the petitioners. In the meanwhile, the petitioners left India.

3.3 A lookout notice was also issued against the petitioners. When the petitioners applied for renewal of the Passport before the Consulate General of India at Dubai, the petitioners became aware of the lookout notice. The petitioners filed Notices of Motion before the City Civil Court to set aside the lookout notices and cancel the bailable warrants. By orders dated 7th May, 2025, the learned Judge, City Civil Court, set aside the lookout notices and stayed the execution of the bailable warrants till the appearance of the petitioners before the Court.

3.4 The Consulate General of India called upon the petitioners to submit 'No Objection' from the Court before which the proceedings in which bailable warrants came to be issued, were pending. The petitioners were thus constrained to take out the instant Notices of Motion seeking no objection of the Court to renew the passports for a term of 10 years.

3.5 The respondents resisted the prayers in Notices of Motion.

3.6 By the impugned orders, the learned Judge, City Civil Court, was persuaded to allow the Notices of Motion observing that since the Court had set aside the lookout notices and stayed the execution of bailable warrants, no prejudice would be

caused to the plaintiff, if no objection for renewal was granted. The learned Judge was, however, of the view that the passports were required to be renewed for a period of one year.

4. Being aggrieved, the petitioners have invoked the writ jurisdiction.

5. I have heard Mr. Mishra, the learned Counsel for the petitioners, and Miss Shraddha Chheda, the learned Counsel for the respondents, at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record.

6. Mr. Mishra, the learned Counsel for the petitioners, would urge that the impugned orders restricting the term of renewal of passports to one year, is in teeth of the provisions contained in the Passports Act, 1967, the Passport Rules, 1980 and Notification dated 25th August, 1993 issued by the Central Government under Section 22 of the Passports Act, 1967. Mr. Mishra would urge that, under the Passport Rules the passport is required to be renewed for a term of 10 years. The learned Judge, City Civil Court, had not ascribed any reason for restricting the term of renewal of passports for one year only. In the absence of any justifiable reason, neither the Passport Authorities nor the

Court can artificially reduce the term of renewal of passport, submitted Mr. Mishra.

7. To bolster up the aforesaid submissions, Mr. Mishra placed reliance on a judgment of this Court in the case of *Capt. Amol Vasant Kelkar vs. Union of India and ors.*¹, and an order passed by a learned Single Judge of this Court in the case of *Gaurav Goenka vs. The State of Maharashtra*².

8. In opposition to this, Miss. Chheda, the learned Counsel for the respondents, stoutly opposed the prayers in the petition. It was submitted that the circumstances in which the petitioners have made themselves scarce and left the respondents in the lurch cannot be lost sight of. Inviting the attention of the Court to the various orders passed by this Court while the suits were pending on the file of this Court and the conduct of the petitioners evincible from the record, Miss. Chheda would urge the learned Judge, City Civil Court, correctly exercised the discretion to give 'no objection' to the renewal of passports for the term of one year. Once the passports are renewed, the petitioners must appear before the City Civil Court. Thereafter, if warranted by the circumstances, the passports can be renewed for a further term. In any event, according to Miss.

1 Criminal Writ Petition No.234 of 2020, dated 8th March, 2021.

2 IA(St)/11956/2025 in WP/2557/2025, dated 13/8/2025.

Chheda, the impugned orders do not suffer from such perversity or infirmity that they warrant interference in exercise of the extraordinary writ jurisdiction.

9. In order to examine the justifiability of the impugned order restricting the 'no objection' for renewal of the passports to one year only, few provisions of the Passports Act, 1967, deserve to be noted.

10. Section 5 of the Act empowers the Passport Authority to, *inter alia*, issue the passport or travel document. Section 7 of the Passports Act provides that a passport or travel document shall, unless revoked earlier, continue in force for such period as may be prescribed and different periods may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class.

11. Rule 12 of the Passport Rules, 1980 prescribes the duration of the passport or travel documents. The relevant part of Rule 12 reads as under:

"12. Duration of passports or travel documents.-

(1) An ordinary passport for persons other than children below the age of 15 years, containing thirty-six pages or sixty pages shall be in force for a period of 10 years from the date of its issue.

(1A) An ordinary passport for a child below the age of 15 years, containing thirty-six pages shall be in force for a period

of 5 years from the date of its issue or until the child attains the age of 15 years, whichever is earlier.”

12. The Passport Authority is also empowered to refuse to issue a passport or travel document under Section 6 of the Passports Act, 1967. For the purpose of the determination of the controversy at hand, the provisions contained in Section 6(2)(f) deserve to be extracted. They read as under:

“6. Refusal of passports, travel documents. Etc.:

.....

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: -

.....

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India.”

13. Evidently, the aforesaid provisions empower the Passport Authority to refuse to issue passport or travel document, where the proceedings in respect of an offence alleged to have been committed by the applicant were pending before a Criminal Court in India. To ameliorate the hardship, the Central Government, in exercise of the power under section 22(a) of the Passports Act, 1967, issued a Notification dated 25th August, 1993 to exempt citizens from operation of Section 6(2)(f) of the said Act, subject to certain conditions. Under the said

Notification, the Central Government exempted from the operation of the provisions of Clause (f) of sub-section (ii) of Section 6 of the Passports Act, 1967, the citizens of India against whom the proceedings in respect of offences alleged to have been committed by them, were pending before a Criminal Court in India, who produce orders from the Court concerned permitting them to depart from India,. One of the conditions is that the passport shall be renewed for the period specified in the order of the Court concerned, if the Court specifies a period for which the passport has to be issued. If the Court does not specify the period, the passport shall be issued for a period of one year.

14. This brings to the fore the role of the Courts in granting no objection for the issue or renewal of passport and also specify the period for which the passport is to be issued or renewed. In the case of *Capt. Amol Kelkar* (supra), on which reliance was placed by Mr. Mishra, the petitioner therein was arraigned for the offences punishable under Sections 406 and 498A read with Section 34 of the Indian Penal Code 1860. The learned Magistrate had granted 'no objection' for renewal of passport for two years only. This Court found that the learned Magistrate had not assigned any reason as to why 'no objection' for renewal was granted only for two years. That rendered the direction for

renewal of passport for limited period erroneous. This Court directed that the passport be renewed for a term of 10 years in accordance with Rule 12.

15. In the case of *Narendra K. Ambwani vs. Union of India and ors*³, a Division Bench of this Court directed that, in all cases where the Magistrate's Court directs renewal of the passports under the rules, the Passport Rules, 1980 shall apply and passports other than for a child aged more than 15 years shall be renewed for a period of ten years or twenty years as the case may be from the date of its issue.

16. Following the aforesaid pronouncement in the case of *Mr. Samip Nitin Ranjani vs. Union of India*⁴ another Division Bench of this Court reiterated that when an application is made for renewal of passport and the Magistrate grants no objection, the Passport Authorities have to adhere to the provisions of the Passports Act and Rules made thereunder.

17. In a recent order in the case of *Kartik Vaman Bhat vs. Union of India and others*⁵ another Division Bench of this Court took note of the fact that the Office Memorandum dated 10th October, 2019, issued by the Central Government in

3 2014(4) Bom. C.R. 281.

4 2016 SCC Online Bom 14539.

5 WP(L)/14496/2024 dtd.21/6/2024.

continuation of the Notification dated the 25th August, 1993, stipulates that mere filing of an FIR or case under investigation does not come within the purview of section 6(2)(f) of the Passport Act 1967, and a criminal case would be considered to be pending only when the Court has taken cognizance of the same. Therefore, the refusal by the Passport Authority to proceed with the application for issue of passport on the ground that an inquiry ordered under Section 202 of the Code of Criminal Procedure, 1973, was pending, was found to be unjustifiable.

18. The aforesaid pronouncements are required to be considered in the backdrop of the overarching proposition that the right to travel abroad is considered to be a facet of fundamental right to life and liberty guaranteed under Article 21 of the Constitution of India subject to reasonable restrictions, which are imposed by law and the Courts.

19. Reverting to the facts of the case, first and foremost, it is necessary to note that the impugned order came to be passed by the learned Judge, City Civil Court, in a civil suit, where bailable warrants were issued against the petitioners to secure their presence. In the strict sense, the provisions contained in Section 6(2)(f) (extracted above) were not attracted. The Notification exempting the citizens from the rigour of Section 6(2)(f)

envisages the 'no objection' of the concerned Criminal Court where the Criminal case is pending. In the instant case, 'no objection' from the Civil Court was insisted upon as the bailable warrants were issued by the Civil Court against the petitioners. This subtle yet significant difference was lost sight of by the learned Judge.

20. Secondly, the impugned orders do not spell out the reasons which weighed with the learned Judge to grant no objection for the renewal of the passports for one year only. The stipulation as to the term for renewal are sans reasons. Moreover, it is imperative to note that the learned Judge, City Civil Court, had already cancelled the lookout notices and stayed the execution of the bailable warrants against the petitioners, albeit to facilitate their return to India and appearance before the Court.

21. In this background, coupled with the absence of any reason as to why the term of renewal of the passports was to be restricted to one year instead of the term permissible under Rule 12 of the Passport Rules, the impugned orders become unsustainable.

22. Miss. Chheda would urge that the petitioners can renew the passports for one year and again seek no objection for

renewal of the passports for a further term, once they appear before the City Civil Court and, thus, the impugned orders do not cause any prejudice to the petitioners.

23. Renewal of a passport for a short duration cannot be said to be inconsequential. The issue of travel documents is often contingent upon the validity of the remainder term of the passport. Therefore, in the absence of any justifiable or compelling reason, the renewal of the passport ought to be for the term as prescribed under the Passport Rules.

24. The upshot of the aforesaid consideration is that the petitions deserve to be allowed and the impugned orders are required to be modified.

25. Hence, the following order:

: O R D E R :

- (i)** The petitions stand allowed.
- (ii)** The impugned orders dated 30th June, 2025 passed by the learned City Civil Judge, stand modified to the effect that the passport of the petitioners be renewed in accordance with Rule 12 of the Passports Rule, 1980, subject to the petitioners satisfying the other conditions

and requirements under the Passports Act, 1967 and Rules, 1980.

(iii) Rule made absolute to the aforesaid extent.

No costs.

[N. J. JAMADAR, J.]