



WEB COPY



O.S.A.No.30 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

O.S.A.No. 30 of 2025
and
C.M.P.No. 2893 of 2025

Ganapathi Govindaraj

.. Appellant

vs

1.Reka Chakravarthy

2.The Passport Authority,
The Regional Passport Officer,
Chennai.

*(R2 impleaded vide order dated 12.02.2025
Made in OSA No.30/25 and CMP No. 2893/25)*

.. Respondents

Prayer : Appeal filed under Order XXXVI Rule I of O.S.Rules r/w Clause 15
of Letter Patent against order dated 17.01.2025 made in A.No.212 of
2025 in O.P.No. 762 of 2024.

For Appellant : Mr.TN.Rajagopalan
For Mr.P.Kannan Kumar

For Respondent : Mr.S.Rajasekar
For Mr.G.Akkash Guru
For R1
Ms.P.J.Anitha, CGSC for R2



WEB COPY



O.S.A.No.30 of 2025

JUDGMENT
(Delivered by Dr. ANITA SUMANTH.,J)

This Original Side Appeal has been filed by the respondent in A.No.212 of 2025 (hereinafter referred to as appellant / father).

2. The brief history giving rise to this matter is as follows. The appellant is married to the respondent. The couple have two minor children, presently aged 4 years and 2 years (collectively referred to as minor children).

3. On account of differences, the couple has been living separately for approximately a year. While so, the mother / respondent in this appeal and referred to either as mother / respondent, has filed a Guardian OP bearing No.762 of 2024 (GWOP), where she has sought permanent custody of the two minor children.

4. The GWOP was instituted in October, 2024 and notice was issued in the first hearing to the father, who entered appearance. The matter was adjourned to 06.01.2025 when time was sought by the father to file a counter. In the meantime, the mother received a positive response to an application filed by her seeking a job in the United States of America (USA) and thus felt the need to travel immediately to avail that offer.

5. Since the passport and OCI cards of the minor children were, according to the mother, in the custody of the father (which fact has incidentally been denied by the father), she filed an application in the



O.S.A.No.30 of 2025

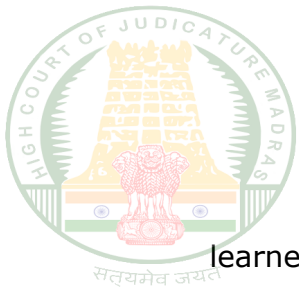
GWOP wherein the prayer was for permission to the mother to apply for passport and Visa / OCI cards for the minor children to take them to the USA without the consent of the father, pending disposal of GWOP on the file of this Court.

6. The application was moved as an urgent application during the Pongal holidays. When the matter had come up on 17.01.2025, the Court was informed that notice was taken on the father but since the notice had been served only on 12.01.2025 when the father was in the native place, he had not been in a position to appear immediately at such short notice before the Court during the vacation sitting.

7. It is in the aforesaid circumstances that order dated 17.01.2025 has come to be passed by the learned Judge, who expresses the view that the father was attempting to protract and prolong the urgent applications, which he was not inclined to encourage.

8. Hence, and while impleading the Regional Passport Officer, Tambaram (RPO), represented by the learned Central Government Standing Counsel, the mother was permitted to submit an application for passport and Visa / OCI cards for the minor children to take them to USA without the consent of the father and pending disposal of GWOP on the file of the Court. The newly impleaded RPO was directed to expedite and facilitate the process. It is as against order dated 17.01.2025 that the father has come in appeal.

9. The mother / respondent was represented by Mr.J.Rajasekar,



O.S.A.No.30 of 2025

learned counsel, on 12.02.2025, when this OSA was listed for admission.

WEB COPY The following order was passed:-

"Appellant has not filed a counter in A.No.212 of 2025 in which impugned order dated 17.01.2025 has been passed. Hence, he is granted a final opportunity to do so.

2.Learned counsel for the respondent seeks some time to file counter to the stay application. Let counter be filed prior to next date of hearing with a copy served in advance on the appellant.

3.Since we are given to understand that the Passport Authority was impleaded before the learned single Judge, though we do not see an impleadment in the cause title to the impugned order dated 17.01.2025, we implead the Passport Authority, the Regional Passport Officer, Chennai in this appeal and application.

4.Registry is directed to print the name of Ms.P.J.Anitha, learned Central Government Standing Counsel, whose appearance is noted in order dated 17.01.2025.

5.List on 20.02.2025.

6.There shall be an order of status quo till then."

10. On 20.02.2025, at the instance of both the parties, they were referred to mediation on the specific aspect of enabling them to arrive at a workable interim arrangement for visitation rights of the father. This aspect assumes importance for the reason that neither party has thought it fit to move the Courts for permanent relief such as either divorce or restitution of conjugal rights. They appear to be happy with the present ambivalent situation of a mutual separation.



O.S.A.No.30 of 2025

WEB COPY

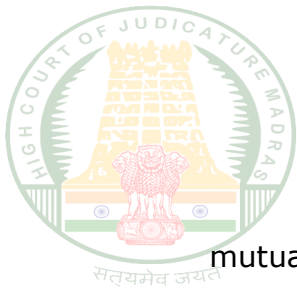
11. Be that as it may, we are of the view that the interests of the father have not been taken note of in proper perspective. This is for the reason that GWOP had itself been instituted only in October, 2024. After the father entered appearance, the matter had been posted to 06.01.2025, on which date, the father had sought a short accommodation.

12. The matter was adjourned to 27.01.2025. In fact, the father did file a counter on 27.01.2025. Hence had things remained thus, pleadings would have been completed on 27.01.2025, pre-empting which A.No.212 of 2025 came to be filed by the mother seeking interim relief.

13. Notice in that application had been received by the father only on 12.01.2025 and on 17.01.2025, when the matter came up, it is not that he had not appeared in the matter. The counsel had appeared seeking a short accommodation on the ground that the father was in the native village for the Pongal celebrations.

14. Hence we had suggested to the parties that it would be in the fitness of things, particularly bearing in mind the interests of the minor children that they should not be denied the natural love and attention of a father which is paramount for a rounded and wholistic childhood.

15. The talks for mediation by N.Kirubakaran,J former Judge of this Court unfortunately failed and was reported to us on 24.02.2025. Bearing in mind our view as expressed in the paragraphs supra, we gave a final opportunity to the parties to sort out their differences qua visitation rights and adjourned the matter to today. The parties have entered into a



O.S.A.No.30 of 2025

mutually acceptable agreement for visitation and have reduced the same

WEB COPY

into writing by way of a joint memorandum of understanding (joint MOU)

executed by both the parties on 25.02.2025. We extract the same below:-

"1.Both parties humbly submits that their two minor sons may be brought back to Chennai, during the last week of July 2025 to end of 1st week of August, and during that period, the interim custody will be given to the Appellant/ Father. He shall have custody of the children for 15 days. He undertakes to pick up the children one day after their arrival and leave the Children to the Mother/Respondent one day prior to leaving USA.

2.Both parties humbly submit that the Two Children will be returning to Chennai during Christmas Holidays (December 2025). During visit to India, the interim custody for 15 days will be with father and he undertakes to pick up the children one day after their arrival and leave the Children to the Mother/Respondent one day prior to leaving USA.

3.Both parties humbly submits that the Appellant/Father will be permitted to have video chat with the children by Whatsapp or other video conferencing platform daily in the evening hours (at USA time) for 15 minutes. On every Saturday and Sunday, Appellant/Father will be permitted to have video chat with the children by Whatsapp or other video conferencing platform for one hour.

4.The Respondent humbly submits that the newly issued passport copy (Xerox) for the Two Minor Children will be furnished to the Appellant/Father forthwith by E-mail.

5.The Appellant humbly submits that he is ready to bear ticket cost of the two minor Children towards travelling to India and back



WEB COPY



O.S.A.No.30 of 2025

to USA during July/August 2025 and December 2025. The travelling dates should be informed by the respondent/Mother, well in advance by end of March, 2025 and July, 2025 respectively.

Both parties most humbly prays, the Hon'ble Court to consider the case and pass orders on the above interim arrangement as may deem fit in the circumstances of the case and thus render justice."

16. The aforesaid memo dated 25.02.2025 shall form part of the records of the Court. Since it is an arrangement that has been negotiated inter se the parties, they are strictly bound to adhere to the same.

17. In light of the above arrangement and the binding nature of the same, the respondent / mother and minor children are permitted to travel on the strength of the passport and visa obtained by her now to USA.

18. This Original Side Appeal is disposed in terms of this order. No costs. Connected miscellaneous petition is closed.

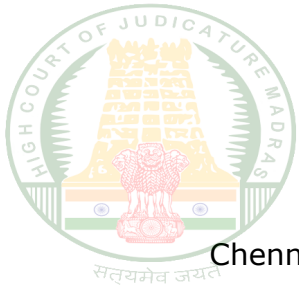
19. List this matter for recording compliance and further orders on 09.01.2026.

[A.S.M., J] [C.K., J]
25.02.2025

Index:Yes/No
Neutral Citation:Yes/No
ssm

Note to Registry : Issue Today.

To
The Passport Authority,
The Regional Passport Officer,



Chennai.

WEB COPY



O.S.A.No.30 of 2025

DR. ANITA SUMANTH.,J.
and
C.KUMARAPPAN.,J.

ssm

O.S.A.No. 30 of 2025

25.02.2025