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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.17632 of 2025

S.Poornima

.... Petitioner

.Vs.

1.Union of India

Rep.by Ministry of External Affairs
South Block, Raisina Hill
New Delhi-110 011.

2.Government of India

Ministry of External Affairs
No.68, College Road
E.V.K.Road, Sampath Malaigai, 7th Floor
Nungambakkam, Chennai 60 006.

3.J.Balaji

4.The Inspector of Police

K-10, Koyembedu Police Station
Koyembedu Market
Chennai 600 107.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to process the passport of the minor girl child, Mithusha Balaji Poornima in reference No.CPAEMBBJI3 dated 25.11.2024 and issue the same without requiring consent of the 3rd respondent.



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For Petitioner : Mr.M.Raja Sekhar

For Respondents : Mr.A.Poornachandran
CGSC for R1 & R2

Mr.J.Subbiah
Government Advocate (Crl.Side)
for R4

Mr.Adinayarana Rao for R3

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the 1st and 2nd respondents to process the application submitted by the petitioner on 25.11.2024, wherein the petitioner is seeking for issuance of passport in the name of her minor daughter Mithusha Balaji Poornima.

2.Heard Mr.M.Raja Sekhar, learned counsel for the petitioner. Mr.A.Poornachandran, learned Central Government Standing Counsel for R1 & R2, Mr.J.Subbiah, learned Government Advocate (Crl.Side) for R4 and Mr.Adinayarana Rao, learned counsel for R3.

3.The petitioner was married to the 3rd respondent on 02.04.2021 and a girl child was born on 21.01.2022. Due to some misunderstanding, the 3rd respondent filed a divorce petition in OP.No.1642 of 2022. The petitioner also filed maintenance case in MC.No.528 of 2022 for herself and her minor daughter. Ultimately, the divorce



petition was ordered on 23.09.2024 against which the petitioner filed an appeal in CMA No.3243 of 2024. This appeal is pending. In the meantime, order was also passed in the maintenance case which has been challenged by the petitioner in CrI.RC.No.2401 of 2024 seeking for enhancement. The 3rd respondent has also filed a criminal revision challenging the order passed in a maintenance petition.

4.The petitioner submitted an application before the 2nd respondent on 25.11.2024 for passport for her minor daughter and the same was kept pending on the ground that the petitioner must get the consent from the 3rd respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

5.In the considered view of this Court, the petitioner is in custody of the minor daughter and the marriage was dissolved based on the divorce petition filed by the 3rd respondent. Even in the said order, it is seen that the petitioner was in the custody of the minor child and while ordering the maintenance case, the maintenance was fixed for both the petitioner as well as the minor child. The petitioner has questioned the order passed dissolving the marriage by way of appeal which is pending in CMA No.3243 of 2024. Hence, under the given circumstances, it is not necessary for the petitioner to get the consent of the 3rd respondent considering the fact that the 3rd respondent has obtained a decree for dissolution of marriage. In view of the above, it is left open to the petitioner to submit a fresh application before



the original passport office. The same shall be processed by the passport officer and the passport officer shall not insist for the no objection certificate from the 3rd respondent. If the petitioner satisfies all the other requirements, the passport shall be issued in the name of the petitioner's daughter Mithusha Balaji Poornima. This process shall be completed within a period of four weeks from the date of receipt of fresh application from the petitioner.

6.This writ petition is disposed of in the above terms. No costs.

04.07.2025

Index : Yes/No
NCS : Yes/No
KP



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N.ANAND VENKATESH, J.

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