



W.P.(MD)No.4220 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4220 of 2025

Remsiyan

... Petitioner

-VS-

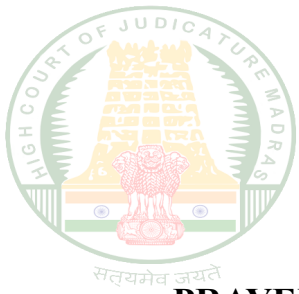
1.The Union of India,
Rep. by its Principal Secretary of Government,
Ministry of External Affairs,
Shasthri Bhavan, New Delhi.

2.The Ambassador,
The Indian Embassy, Diplomatic Enclave,
Arabian Gulf Street,
P.O.Box 1450, Safat - 13015, Kuwait.

3.The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Passport Officer,
Bharathi Ula Street,
Race Course Road,
Madurai - 625 002, Tamil Nadu.

4.The Inspector of Police,
Colachel Police Station,
Kanyakumari District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to issue the Reissue Passport of the petitioner's son, filed Reissue Application No.KU0075462676125, dated 25.01.2025, through the second respondent Indian Embassy, Safat, Kuwait, for the period of 10 years validity, within a time limit stipulated by this Court.

For Petitioner : Mr.D.Rajaboopathy

For R1 to R3 : Mr.K.Maharajan
Central Government Standing Counsel

For R4 : Mr.K.Gnanasekaran
Government Advocate (Criminal side)

ORDER

This Writ Petition has been filed seeking a direction to the third respondent to issue renewal passport of the petitioner's son, consequent to Renewal Application No.KU0075462676125, dated 25.01.2025.

2. Heard both sides. With the consent of both sides, this Writ Petition is disposed of, at the admission stage itself.



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3. The son of the petitioner, Antony Shaji is working in a Civil Construction Company at Kuwait and he is the holder of Indian passport bearing No.M6423589, which is set to expire on 12.05.2025. He is also an accused in Crime No.442 of 2011 for the offences under Sections 147, 148, 294(b), 323 and 324 of I.P.C., on the file of the fourth respondent and the same has culminated in laying a charge sheet in C.C.No.85 of 2013 before the Judicial Magistrate Court, Eraniel, Kanyakumari District. The son of the petitioner necessarily has to come back to India to face trial. However, since his passport is set to expire on 12.05.2025, he is little hesitant to approach the authorities in Kuwait.

4. The learned counsel for the petitioner relied on an order of a learned Single Judge of this Court, dated **21.09.2022**, in **W.P.(MD)No.22222 of 2022** in **S.Muniasamy vs. The Union of India, New Delhi and two others**. Even in that case, the son of the petitioner therein was facing trial in a criminal court but was staying in Kuwait. After considering the entire issue, the learned Single Judge had finally issued the following directions:-

"11.Taking into consideration the facts and circumstances of the case and also in order to strike a balance to ensure that the Passport is renewed for a limited period and the petitioner is also permitted to take



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necessary steps to clear himself from the criminal case, this Court is inclined to allow the Writ Petition with the following directions:-

(a) The petitioner is directed to make a representation to the Consulate General of India, Indian Embassy at Abudapy along with a copy of this order;

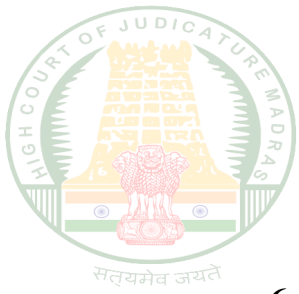
(b) Immediately on receipt of such representation, the Passport of the petitioner shall be re-issued/renewed for a period of two years;

(c) On such re-issuance/renewal, the petitioner shall come over to India and take immediate steps to participate in the criminal proceedings and work out his remedy and defend himself in the case;

(d) The petitioner shall also file a memo before the concerned Court, where the criminal case is pending and bring to the notice of the said Court, the orders passed in this writ petition; and

(e) If in case the criminal case does not come to an end within the period for which the passport has been re-issued/renewed, the petitioner shall get the necessary permission only from the concerned Court in line with the notification issued by the Government of India through the Ministry of External Affairs in G.S.R.298(E) dated 14.04.1976".

5. Thus, it is seen that the appropriate procedure for the petitioner's son is to apply for emergency certificate to come back to India and answer any question raised by the respondents 1 and 3 relating to the criminal case which has been registered against him and give necessary undertaking that he would appear before the criminal court and ensure his participation during the criminal trial.



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6. The learned counsel for the petitioner has stated that if the son of the petitioner applies for an emergency certificate as stated above, he may not be able to go back to Kuwait. The primary concern is to get renewal of the passport and to attend the criminal case. The issue of going back to Kuwait depends upon the result of the criminal case. The petitioner's son's need at present is to get renewal of passport and come back to this Country and attend the criminal cases and endeavour to get an order of acquittal by contesting in the criminal case.

7. Placing the obligation of the petitioner's son herein and also in the light of the aforementioned direction given by the learned Single Judge, this Writ Petition is disposed of. There shall be no order as to costs.

NCC : Yes / No
Index : Yes / No
smn2

18.02.2025

To:-

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Union of India,
Ministry of External Affairs,
Shastri Bhavan, New Delhi.



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VIVEK KUMAR SINGH, J.

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