



W.P.(MD).No.26424 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.26424 of 2024

Blesso Josan

... Petitioner

Vs.

1. The Secretary to Government of India,
Ministry of External Affairs,
No.74B, South Block,
New Delhi.

2. The Consulator General,
Indian Embassy,
B-1, Diplomatic Quarter,
P.O.Box No.94387,
Riyadh - 11693,
Saudi Arabia.

3. The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

4. Riya



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5. The Superintendent of Police,
Kanyakumari District.
(R5 is suo motu impleaded vide Court Order
dated.04.12.2024 in W.P(MD).26424 of 2024)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to grant renewal of passport to petitioner's daughter namely ANYA, aged 9 years, by considering petitioner's online application No.ARN.24-2000846086 dated 18.02.2024 and his representation dated 23.04.2024.

For Petitioner	: Mr.R.Narayanan,
For R-1 to R-3	: Mr.A.P.Rajasimman Central Government Standing Counsel
For R-4	: Mr.Murugan
For R-5	: Mr.K.Gnanasekaran Government Advocate (Crl. Side)



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ORDER

This Writ Petition is filed seeking to direct the respondents to renew the passport of the petitioner's daughter, namely, Anya, aged nine years by considering his online application No.ARN.24-2000846086 dated 18.02.2024, considering his representation dated 23.04.2024 .

2. Heard the learned Counsel, Mr.R.Narayanan, appearing for the petitioner, the learned Central Government Standing Counsel, Mr.A.P.Rajasimman, appearing for the respondents 1 to 3, the learned Counsel, Mr.Murugan, appearing for the fourth respondent, the learned Government Advocate (Crl. Side), Mr.K.Gnanasekaran, appearing for the fifth respondent and carefully perused the material available on record.

3. The fourth respondent is the wife of the petitioner. The petitioner married the fourth respondent on 01.02.2013. Out of their wedlock, they were blessed with two children among whom a baby girl was born on 26.06.2014 and she is right now nine years old and her

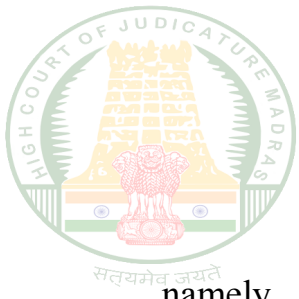


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name is Anya. In the course of the petitioner's matrimony with the fourth respondent, several in-differences arose as a result of which the fourth respondent on 03.07.2022, taking all her belongings, left her matrimonial home, leaving her children under the care and custody of the petitioner. The fourth respondent had given a police complaint on 03.07.2022 at Vadasery Police Station and FIR in Crime No.185 of 2022 was also registered as against the petitioner, with respect to their in-differences in their matrimonial life. Thereafter, the petitioner filed a petition for divorce in IDOP No.853 of 2023, before the Family Court, Nagercoil, Kanniyakumari District. The fourth respondent was not available for any reconciliation, and it is brought to the knowledge of the petitioner that she has left abroad with the help of her brother and has settled at Brunei. As of now, there is no information or connection between the petitioner and the fourth respondent.

4. Under such circumstances, the petitioner is working in Saudi Arabia, accommodating his children along with him, and both his children are studying in Saudi Arabia. Since the petitioner's daughter,



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namely, Anya's passport validity would expire by July 2024, he had made an application for renewal of passport for his daughter, namely, Anya, aged nine years, vide online application No.ARN. 24-2000846086 dated 18.02.2024. The petitioner had also sent request mail dated 13.03.2024 and 14.03.2024 to the second respondent, requesting to approve his application for renewal of passport to his daughter facilitating uninterrupted education of her at Saudi Arabia. Despite the petitioner's sincere efforts to get a No Objection Certificate from the fourth respondent, he is not able to succeed in getting one from the fourth respondent. Hence, he had also submitted his declaration in Annexure - C also as advised in the website of the first respondent's passport portal, in terms of the Passport Rules, 1980. Even thereafter, the petitioner's application is not considered. Hence, the present writ petition came to be filed.

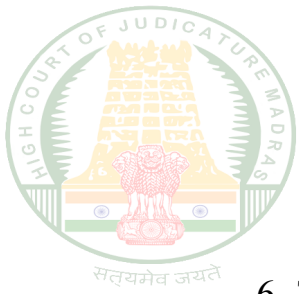
5. The learned Counsel appearing for the fourth respondent on the basis of the counter affidavit filed by the fourth respondent submitted that, due to the in-differences between the petitioner and the fourth



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respondent, they are already separated and a complaint has been lodged by the fourth respondent in on 03.07.2022, and the case in Crime No. 185 of 2022 was registered against the petitioner which has culminated into C.C.No.274 of 2022 on the file of the Additional Mahila Court, Nagercoil, for offences under Section 294(b), 323, 506(i) of IPC r/w., Section 4 of Women Harassment Act. As such the petitioner is an absconded accused as on date, and he had separated her children unreasonably, and had abandoned the fourth respondent and the petitioner has also filed a divorce proceeding in IDOP No. 853 of 2023 on the file of the Famil Court, Nagercoil. The question of guardianship as far as the children of the petitioner and fourth respondent is not so far decided by the competent Court. Hence ,the learned Counsel submitted that the fourth respondent is not inclined to issue No Objection Ceritificate for the grant of renewal of passport of her minor child, Anya, in favor of the petitioner and pressed for dismissal of the writ petition.

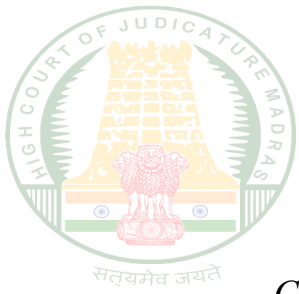


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6. The petitioner appeared before this Court virtually along with his two minor children, and both the minor children, including Anya expressed their willingness before me that they want both their parents to live together. The matter in hand is no more *res integra* and the Hon'ble High Court of Kerala, Ernakulam, in the case of ***Chaitanya S.Nair (Minor) Vs. Union of Indai*** in W.P.(C)No. 22555 of 2021 dated 08.03.2022 has held as follows:

“Though in earlier times, there was ambiguity and confusion regarding the procedure to be adopted when consent of both parents could not be obtained while issuing a passport to a minor, by virtue of several precedents, which were subsequently incorporated as guidelines in the Passport Manual, it has been provided that, if an affidavit is filed in the form of Annexure-C (earlier Annexure-G) of Schedule III of the Passport Rules, 1980, the passport issuing authority can issue a passport to a minor child, without insisting upon the consent of both parents. Therefore, even if one of the parents of a minor child refused to give consent, the passport issuing authority is entitled to issue a passport to a minor, provided Annexure-



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C is submitted. Juvairiya v. Regional Passport Officer, Malappuram (2014 (2) KHC 53) is an authority for the above proposition.

7. In the instant case, it is understood that the petitioner has filed a petition for divorce as against the fourth respondent/wife and that the children are in the care and custody of the petitioner/father. That apart, the children, more particularly the minor daughter, Anya, is studying in Saudi Arabia as on date and the application for renewal of her passport has been made by the petitioner during the middle of the current academic here. Under such circumstances, the child requests a passport for her continued stay abroad and to continue her studies at Saudi Arabia. The petitioner has duly submitted a declaration form as provided in Annexure - C with proper reasons. Though the fourth respondent has filed a counter affidavit declining to give her No Objection Certificate for grant of renewal of the passport of the petitioner's minor daughter, it has become clear before the Court that neither the petitioner nor the fourth respondent has filed a guardian original petition under the Guardians and Wards Act 1890, before the concerned Family Court so far. The petitioner and his children appeared



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before this Court virtually, and the children are living cordially with their father and are also studying in Saudi Arabia as on date. The petitioner submitted that he is taking care of his children and most of the time he works from home. Despite several opportunities given to the fourth respondent to appear before this Court, she preferred not to appear before this Court, but only to file a counter affidavit through her advocate. So it can be understood that, for the past two years from 03.07.2022, when she separated from the petitioner lastly, and lodged the complaint as against him at Vadasery Police Station, facilitating registration of Crime No.185 of 2022, she has not taken any effort to meet her children.

8. That apart, it can also be understood that she has not filed a petition for restitution of conjugal rights before the jurisdictional Family Court so far. Annexure - C required by the first respondent is nothing but a declaration which is applicable in cases where, for any reason, whatsoever, the married parent appearing for a passport for the minor child, is not able to obtain the consent of the other parent for



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obtaining passport for the child. The reasons also include-willful denial of consent by the estranged parents; absence of communication between the divorce / not divorce, but separated parents, exparte divorce proceedings etc., but exclude cases where both the parents are involved in divorce proceedings in which case, the permission of the Court or consent of both the parents in Annexure - D is required. In the instant *lis* in hand, the divorce proceedings between the petitioner and the fourth respondent is pending before the Family Court, Nagercoil, Kanniyakumari District. The child's passport validity has ended as early as July 2024 itself. Even for the purpose of returning back to India, it is necessary that the child's passport has to be renewed.

9. Considering the objection raised by the fourth respondent wife to issue No ObjectionCertificate for renewal of passport to her daughter, this Court is of the considered view that the ward should not suffer due to the in-differences enmity and ego of the parents. Hence, I am of the considered view that considering the safety, security and educational prospectors of the minor daughter of the petitioner, it is



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necessary for the petitioner to get the passport of his minor daughter, Anya, aged nine to be renewed.

10. In view of the same, this Court hereby direct the third respondent to consider the petitioners's online application No.ARN. 24-2000846086 dated 18.02.2024 and pass orders of renewing the passport of the petitioner's daughter, for a period of two years. I make it clear that this order is passed only considering the willful denial of consent by the estranged parent i.e., fourth respondent, pending divorce proceedings between the petitioner and the fourth respondent.

11. Accordingly, this Writ Petition is allowed. No costs.

27.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

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