

Kiran Lohia vs The State Govt Of Nct Of Delhi & Ors on 17 December, 2020

Author: Vipin Sanghi

Bench: Vipin Sanghi, Rajnish Bhatnagar

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P. (CRL) 357/2018
KIRAN LOHIA

Through: Ms. Malavika Raj
Vohra, Advocates
person.

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respo

Through: Mr. Chaitanya Go
Mr. Rahul Mehra,
for the responde
Mr. Anil Malhotr
Bhalla, Advocate
No.4/ Mr. Aman L

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% 17.12.2020 Exemption allowed, subject to all just exceptions. The application stands disposed of.

1. Issue notice. Ms. Rytim Vohra accepts notice on behalf of the petitioner.

2. This application has been moved by respondent No.4 to point out that after passing of the order dated 07.12.2020 directing release of the passport of the child to enable the petitioner to travel with the child to the USA in terms of the order passed by the Supreme Court, the petitioner has obtained an American Passport of the minor child.

3. Learned counsel for the respondent No.4 submits that the fact that the petitioner had applied for an American Passport had not been disclosed to the Court. He further points out that an application has been moved by the petitioner before the Supreme Court for expedited release of the OCI Card on the premise that the child is an American Citizen. His grievance is that the permission to travel to the USA granted by the Supreme Court cannot be construed as permission to change the nationality of the child from being an Indian Citizen to an American Citizen. Respondent No.4 strongly objects to and opposes the said move undertaken by the petitioner. Further, Mr. Malhotra submits that the

petitioner has not filed the affidavit of undertaking and the Airlines Tickets in terms of our order dated 07.12.2020. He also has a grievance with regard to the Mirror Order - stated to have been obtained by the petitioner from the American Court.

4. In response, Ms. Rajkotia submits that the petitioner has no intention of abducting the child to USA, and that is why, the petitioner has moved the Supreme Court for obtainment of OCI Card, so that the child is able to return to India after her visit to the USA in terms of the order passed by the Supreme Court. She also states that respondent No.4 was aware of the fact that the petitioner had applied for an American Passport, since respondent No.4 had himself moved an application before the Supreme Court that the petitioner should not be granted American Passport for the child.

5. In our view, since the permission to travel abroad with the minor child was granted to the petitioner by the Supreme Court, all these issues should be raised before the Supreme Court, particularly in view of the fact that both the parties have already moved the Supreme Court for related reliefs. Having said this, we would like to place on record the fact that the petitioner had not disclosed in her application moved before this Court, that she has already applied for an American Passport. The American Passport actually came to be issued after passing of the order.

6. To allay the apprehensions expressed by Mr. Malhotra, Ms. Rajkotia submits that the intention of the petitioner is not to flee with the child to USA on the American Passport, and that the petitioner would not travel to USA with the child till the petitioner is able to obtain the OCI Card. We take this undertaking of the petitioner on record and we also direct the petitioner not to travel to USA till the matter is looked at by the Supreme Court in the light of the aforesaid developments.

7. The application stands disposed of in the aforesaid terms.

VIPIN SANGHI, J RAJNISH BHATNAGAR, J DECEMBER 17, 2020 B.S. Rohella