

**(2009) 06 KL CK 0112**

**In the High Court Of Kerala**

**Case No : Writ Petition (C) No. 16700 of 2009**

Abdul Khader Nissar

APPELLANT

Vs

Passport Officer

RESPONDENT

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**Date of Decision :** 19-06-2009

**Acts Referred:**

**Citation :** (2009) 3 KLT 180

**Hon'ble Judges :** V. Giri, J

**Bench :** Single Bench

**Advocate :** P.M. Ziraj, for the Appellant; P. Parameswaran Nair, A.S.G.I., for the Respondent

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## **Judgement**

1. Petitioner is the holder of an Indian Passport, which is valid upto 11.10.2009. The petitioner had earlier married a lady by name Safia as per the religious rites and rituals applicable to the Muslim Community. Dispute arose between the spouses. Later, the petitioner divorced his wife by saying "Talaq" on 19.3.2009 as evidenced by Ext.Pl. The Jamaath Committee of the Juma Masjid, Kunnatheri, Thayikkattukara issued a certificate on 31.5.2009 verifying this fact. Ext.P3 agreement was also executed between the petitioner and his wife. The petitioner has sought for deletion of the name of his wife from the passport. He submitted Ext.P5 application in this regard. This Writ Petition has been filed expressing an apprehension that the respondents may insist on a formal decree of divorce before dealing with the application correction as sought for by the petitioner. The issue whether a decree of divorce is necessary in cases dealing with an application for correction of passport submitted by the persons belonging to Muslim Community has been considered by me in detail in W.P.(C) No. 34730/08. It has been held as follows in paragraph 5 of the said judgment:

5. Authentication of divorce by competent court is one of the methods of proving a divorce or even the existence of a remarriage. But it is not the only method. Divorce resultant upon a "talaq" pronounced by her husband is a mode of divorce that is accepted in the Muslim Community. An affirmation of the state of

affairs by a sworn affidavit in the form "Annexure A" would suffice going by C1.7 of Ext.R1(a). It is affirmed that State Government does not propose to make any addition to what is already mentioned as due procedure under Ext.R1(a).

The facts of the present case are similar to those considered in the aforementioned judgment.

3. Heard learned Counsel representing the Assistant Solicitor General also.

In these circumstances, the Writ Petition is disposed of directing the 1st respondent to deal with Ext.P5 application, in the manner provided in the Passport Information Booklet. The petitioner and his former wife referred to in Ext.P3 shall file sworn affidavit. Thereupon, the application shall be dealt with on merits by the 1st respondent.