

(2015) 05 KAR CK 0013

In the Karnataka High Court

Case No : Writ Petition No. 19618 of 2015 (GM-PASS)

Tripti Rai

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 05-05-2015

Acts Referred:

Hindu Marriage Act, 1955 — Section 13(1)(i-b), 4(3)

Citation : (2015) 3 DMC 186 : (2015) 4 KarLJ 145

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : Pramila Nesargi, Senior Counsel for Geetha G. Menon, for the Appellant; Krishna S. Dixit, Assistant Solicitor General of India, Advocates for the Respondent

Final Decision : Allowed

Judgement

Anand Byrareddy, J.

1. Heard the learned Advocate, Smt. Pramila Nesargi appearing for the Counsel for the petitioner. The learned Assistant Solicitor General of India, to take notice for the respondents.

2. Having regard to facts and circumstances, the petition is heard for final disposal.

3. It is the case of the petitioner that she is married to one Ajay Rajasekhar and they have been married since the year 2000. They have a son Dheer Rajasekhar born on 25-8-2005 and a daughter Mischa Rajasekhar born on 10-8-2009. The children are aged 9 and 5, respectively. It transpires that the petitioner has fallen out with her husband and has approached the Family Court seeking a dissolution of their marriage, under Section 13(1)(i-b) of the Hindu Marriage Act, 1955. The petition is said to be pending. The children are in the custody of the petitioner. The petitioner is stated to be employed at Bengaluru. The petitioner claims that the children are under her care and she is the sole care provider of the children.

The husband of the petitioner is not a party to this petition. He is said to have been granted visitation rights on the first and third Saturday of every month between 11.00 a.m. to 2.00 p.m.

4. According to the petitioner, the petitioner's husband has been informed about the fact that the minor son of the petitioner has been selected for the MARRS International Spelling Bee International Finals 2013-2014, to be held at Abu Dhabi, UAE. A copy of the intimation of such selection is at Annexure-A to the petition. The petitioner claims to have paid the fees for the participation at the said Finals.

5. Her son and daughter are said to have applied for passports. Since the petitioner shall have to accompany her son and there is none to take care of her daughter, she had applied for passports in respect of both the children with the respondent 2. It transpires that the second respondent had, by an endorsement dated 8-4-2015, communicated that unless the consent of the father of the children is obtained, or unless there is an order of a Court to permit the children to be taken abroad by the petitioner, the passports cannot be granted.

6. In view of the Finals that is to take place as aforesaid, on 23-5-2015, and as the petitioner is left with no alternative remedy, the petitioner has filed this petition. Smt. Nesargi, would draw attention to the relevant provision under the Passports Rules, 1980, namely, Section 4(3), which provides that a single parent who is separated, but not formally divorced, is also eligible to endorse consent to make an application and obtain a passport and it is apparently by way of abundant caution that the authority has indicated that the passport could not be granted unless there is consent of the father or there was a Court order.

Consequently, given the facts and circumstances and on the assurance of the petitioner that the children are being taken abroad only to enable her son to participate at the Spelling Bee International Finals and she would immediately return to Bengaluru, the petition is allowed. Respondent 2 is directed to issue the passports on the basis of the applications made by the petitioner forthwith, in any event, well-before 15-5-2015.