



2026:KER:28947

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 31ST DAY OF MARCH 2026 / 10TH CHAITHRA, 1948

WP(C) NO. 10221 OF 2026

PETITIONER/NIL:

**HANS JOSEPH
AGED 63 YEARS
S/O K V JOSEPH
KALLEKADAMBIL HOUSE, MUTTUCHIRA PO,
KOTTAYAM, PIN - 686613**

BY ADV.VINAY MATHEW JOSEPH

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS
JAWAHAR LAL NEHRU BHAWAN, 23-D,
JANPATH, NEW DELHI, PIN - 110011**
- 2 CONSULATE GENERAL OF INDIA,
BIRMINGHAM
REP. BY THE CONSUL GENERAL 2,
DARNLEY ROAD, BIRMINGHAM, PIN - 110011**
- 3 HIGH COMMISSIONER OF INDIA TO UK
INDIA HOUSE, ALDWYCH, LONDON WC2B 4NA,
UNITED KINGDOM, PIN - 110011**

**BY ADV. O.M.SHALINA,
DEPUTY SOLICITOR GENERAL OF INDIA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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'C.R.'

BECHU KURIAN THOMAS, J.

W.P.(C) No.10221 of 2026

Dated this the 31st day of March, 2026

JUDGMENT

Petitioner seeks directions for repatriation of the mortal remains of his deceased nephew Sri. Joby Thomas, who allegedly died while living in the United Kingdom.

2. Sri. Joby Thomas, died on 06.02.2026 near Cambridge in the United Kingdom. The mother of the deceased is the petitioner's sister. The deceased, though born, brought up and married in Kerala, after his divorce, he went to England and started working there and later acquired UK citizenship in the year 2016. The deceased even married a lady by name Princess Pia Malabanan, who is a Filipino citizen. The petitioner alleges that since February 2026 as there was no contact with Sri. Joby Thomas, enquiries were made which revealed that he is no more. Hence a funeral director was appointed and though steps were initiated to repatriate the body to India, it was realized that a No Objection Certificate was required from the Indian Consulate. On applying to the Embassy of India at UK, they insisted on the production of the Indian Passport or the Overseas Citizen of India Card, both of which were not available. According to the petitioner, the Indian Passport was surrendered on acquiring the British Passport and the



deceased had not taken an OCI card as well, though he was eligible to apply for the same. The petitioner asserted that the mother of the deceased and his daughter are all alive in India and hence the mortal remains ought to be brought to India. The e-mail of the wife of the deceased has also been produced, indicating that her late husband desired to come back and settle in Kerala. Petitioner contends that the Indian Consulate at the United Kingdom, refused permission due to the absence of an Overseas Citizens of India (OCI) card. Thus the petitioner has approached this Court seeking directions for repatriation of the mortal remains to India.

3. A statement has been filed on behalf of the first respondent pleading that the services relating to issuance of No Objection Certificate (NOC) for transportation of mortal remains is extended to the next of kin of a deceased Indian national who intends to transport the mortal remains from the United Kingdom to India. According to the respondents, the eligibility criteria for repatriation of the mortal remains as can be noticed from Exhibit P12 specifies that, when the deceased is a foreign national, possession and production of a valid OCI/PIO card at the time of death is a mandatory requirement. It was also stated that Mr. Joby Thomas was a British national at the time of his death and did not possess any OCI card so as to fulfil the mandatory requirement prescribed for issuance of the No Objection Certificate (NOC) for transportation of his mortal remains to India. It is further submitted that



the deceased had voluntarily renounced his Indian citizenship for the purpose of acquiring British nationality at least ten years ago, in the year 2016, and thereafter did not apply for an OCI/PIO card. This fact clearly indicates that the deceased did not intend to retain any such documentation connecting him to India while residing abroad.

4. I have heard Sri. Vinay Mathew Joseph, the learned Counsel for the petitioner as well as Smt. O. M. Shalina, the learned Deputy Solicitor General of India.

5. Mr. Joby Thomas, the deceased, was an Indian citizen as he was born in India. However, he voluntarily acquired British citizenship thereby terminating his Indian citizenship by a conscious act. During his lifetime, for ten long years, after acquiring British citizenship, the deceased did not even apply for an OCI card. Hence, there is nothing to indicate that the deceased had, at any point in time, desired or wanted to retain his domicile of origin or have his mortal remains brought to India. Petitioner has not been able to produce any scrap of paper to indicate such a desire of the deceased, expressed during his lifetime.

6. True, an email of his wife at the time of his death, has been produced indicating that the deceased had expressed his desire to return to India. However, the said expression being a communication made much after the death of the deceased, value cannot be attached to it as an expression of the deceased.



7. The transfer of mortal remains cannot be at the wish or desire of any successor or legal heir of a person, though the same can certainly be a relevant consideration. Eligibility to transfer the mortal remains of a dead person has to be decided primarily on the basis of citizenship as well the relevant rules in force. Since burial of a dead body has serious and numerous legal implications, it has to be done on the basis of relevant rules.

8. As per the guidelines issued by the High Commission of India in London, an NOC has to be issued by the Embassy of India at the UK. The NOC can be issued either if the deceased is an Indian National by production of Indian passport or if he has acquired British citizenship he must have possessed an OCI card. Eligibility to possess an OCI card is not enough, as possession of such a card or atleast applying for such a card may have a bearing on the domicile of choice. In the instant case, it is the admitted case of the petitioner that the deceased had never even applied for an OCI card. In such circumstances, there is no material available to indicate the desire of the deceased prior to his death.

9. Even though petitioner contends that in respect of Singapore, an OCI card is not necessary if it relates to a person of Indian origin. The said parameter cannot be applied in respect of UK citizens, where the requirement of an OCI card is mandatory as per the guidelines. Though the learned Counsel for the petitioner relied upon the decision of the



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Delhi High Court in ***Anthony Watts v. Union of India & Another*** [2024 SCC Online Del 5615], with respects, I am unable to accept the said proposition. Every embassy has the discretion to frame their own guidelines regarding a matter, taking into consideration relevant laws, geopolitical relationship and other appropriate factors associated with the host country. Such consideration can be different for different countries. The difference in the country can be an intelligible differentia to provide for a varied prescription. Such differing parameters between Indian Consulates of differing countries cannot be said to be arbitrary especially when it relates to a person who had acquired citizenship of another country.

10. Further, the Supreme Court had, in ***Dargah Hazrat Mulla Syed v. Union of India & Another*** [W.P.(C).No.1449 of 2024], declined to entertain a petition seeking transportation of the mortal remains of a person from Dhaka, Bangladesh, to Prayagraj, India. The distinction drawn by the Delhi High Court with the above judgment of the Supreme Court, according to me, is not a clear distinction to warrant a different view to be adopted.

11. Apart from the above, petitioner is not a legal heir of the deceased. He has no right to even maintain this writ petition. Admittedly, the mother of the deceased as well as his daughter are both alive, none of them have approached this Court seeking any direction. Therefore, petitioner's request for the transport of the mortal



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remains of the deceased, even if it is assumed for the sake of argument to be legally justified, still, such a direction as sought for cannot be issued.

In view of the above circumstances, I find no merit in the writ petition and it is dismissed.

Sd/-
BECHU KURIAN THOMAS
JUDGE

jka/31.03.26.

**APPENDIX OF WP(C) NO. 10221 OF 2026****PETITIONER'S EXHIBITS**

- Exhibit P1 TRUE COPY OF THE INDIAN PASSPORT OF THE DECEASED JOBY THOMAS
- Exhibit P2 TRUE COPY OF THE BRITISH PASSPORT OF JOBY THOMAS
- Exhibit P3 TRUE COPY OF THE CERTIFICATE OF FACT OF DEATH OF THE DECEASED JOBY THOMAS
- Exhibit P4 TRUE COPY OF THE CORONERS ACKNOWLEDGEMENT UPON NOTICE OF INTENTION TO REMOVE A BODY OF THE DECEASED JOBY THOMAS OUT OF ENGLAND
- Exhibit P5 TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED FOR THE PURPOSE OF INTERNATIONAL REPATRIATION OF THE DECEASED JOBY THOMAS
- Exhibit P6 TRUE COPY OF THE EMBALMING CERTIFICATE OF THE DECEASED PERSON
- Exhibit P7 TRUE COPY OF THE APPLICATION SEEKING GRANT OF NOC FILED BEFORE RESPONDENT NO. 2
- Exhibit P8 TRUE COPY OF THE EMAIL DATED 25.02.2026 SENT BY THE 2ND RESPONDENT TO THE PETITIONER
- Exhibit P9 TRUE COPY OF THE AFFIDAVIT DATED 11.02.2026 FILED BY THE PETITIONER BEFORE THE CORONER'S OFFICE, CAMBRIDGE
- Exhibit P10 TRUE COPY OF THE EMAIL SENT BY PRINCESS PIA MALABANAN TO THE 2ND RESPONDENT DATED 11.03.2026
- Exhibit P11 TRUE COPY OF THE JUDGEMENT BEING ANTHONY WATTS V. UNION OF INDIA & ANR. (NEUTRAL CITATION: 2024:DHC:6196) PASSED BY THE DELHI HIGH COURT
- Exhibit P12 TRUE COPY OF THE UK GUIDELINES FOR GRANT OF NOC FOR TRANSPORT OF MORTAL REMAINS TO INDIA
- Exhibit P13 TRUE COPY OF THE US GUIDELINES FOR GRANT OF NOC FOR TRANSPORT OF MORTAL REMAINS TO INDIA
- Exhibit P14 TRUE COPY OF THE SINGAPORE GUIDELINES FOR GRANT OF NOC FOR TRANSPORT OF MORTAL REMAINS TO INDIA