

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

FRIDAY, THE 29TH DAY OF MAY 2026 / 8TH JYAISHTA, 1948

WP(C) NO. 7780 OF 2026

PETITIONERS:

- 1 AYSHATH BUNAYATH,
AGED 28 YEARS, D/O HASSAIN, RESIDING AT SAFANIYA
MANZIL, PACHAMBALA, ICHILANGOD VILLAGE, MANJESHWAR
TALUK, KASARAGOD DISTRICT, PIN - 671324
- 2 ABDUL RASHEED AMBAR IBRAHIM,
AGED 40 YEARS, S/O IBRAHIM, RESIDING AT NISHANA
MANZIL, AMBAR, MANGALPADY, MANJESHWAR TALUK,
KASARAGOD DISTRICT, PIN - 671324

BY ADVS.
SRI.T.MADHU
SMT.C.R.SARADAMANI
SMT.AVANTHIKA R.
SMT.ARUNIMA A.R.
SHRI.T.S.DAVIS
SMT.KARTHIKA B. VINOD

RESPONDENTS:

- 1 THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, MINISTRY OF EXTERNAL
AFFAIRS, NEW DELHI, PIN - 110001
- 2 THE REGIONAL PASSPORT OFFICER,
KOZHIKODE, ERANHIPALAM POST, WEST HILL,
KOZHIKODE DISTRICT, PIN - 673006
- 3 PASSPORT SEVA KENDRA PAYYANNUR,
BUILDING NO.31, 452X+W5M KOYENCO ARCADE, 115 B,
NEAR BLOCK DEVELOPMENT OFFICE, PAYYANNUR,
KANNUR DISTRICT, REPRESENTED BY ITS AUTHORISED
OFFICER, PIN - 670307

BY ADV O.M.SHALINA, DSGI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22.05.2026, THE COURT ON 29.05.2026 DELIVERED THE
FOLLOWING:



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J U D G M E N T

The 2nd petitioner is the former husband of the 1st petitioner. No children were born out of their wedlock. The 1st petitioner is the holder of an Indian Passport which was valid for the period from 13.01.2016 to 12.01.2026. In her passport, the name of her spouse is shown as Abdul Rasheed Ambar Ibrahim who is the 2nd petitioner. The surname of the 1st petitioner is also shown as Abdul Rasheed being the name of the 2nd petitioner.

2. The marriage between the petitioners was performed on 31.08.2015 in accordance with the religious rites and ceremonies prevailing among the Muslim community and the personal law applicable to Muslims. Later, their relationship became estranged and they were living separately for more than three years. Since the marriage between the petitioners was irretrievably broken down, it was dissolved on mutual consent on executing Ext. P2 Mubaraat Naama dated 09.07.2025 in the presence of witnesses.

3. 'Mubaraat Naama' is a written deed of divorce by mutual consent under Muslim Personal Law, where both spouses voluntarily



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decide to dissolve their marriage. The Division Bench of this Court in **X and others v. Y and others** (2021 (2) KHC 709: 2021 (2) KLT 967: ILR 2021 (2) Ker. 493) described 'Mubaraat' as follows:

"Mubaraat: Mubaraat is a form of separation by mutual consent. Dr. Justice Kauser Edappagath (Footnote No.12) after referring to many authorities refers to 'mubaraat' as dissolution of marriage by common consent of the spouses. The learned author further states thus:

The word mubaraat indicates freeing of each other (from the marriage tie) by mutual agreement. No formal form is insisted upon for mubaraat by the Sunnis. The offer may come from either side. When both the parties enter into mubaraat, all mutual rights and obligations come to an end. Both Shia and Sunni laws hold it an irrevocable divorce. Iddat is compulsory after mubaraat as after khula. Under Sunni law, when both the parties enter into mubaraat, all matrimonial rights which they possess against each other fall to the ground.

Footnote No.12: 'Divorce and Gender Equity in Muslim Personal Law of India'."

The petitioners state that based on Ext. P2, the 2nd petitioner has pronounced 1st and 2nd Talaqs and issued the Talaq Naama. The Talaq Naama issued was also communicated to the concerned Juma Masjids. On the 2nd petitioner pronouncing Talaq and issuing the Talaq Naama, the 1st petitioner observed iddat. The petitioners state that after the Talaq Naama, they are discharged from their marital



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obligations to each other.

4. Since the validity of the passport of the 1st petitioner expired on 12.01.2026, she approached the Passport Seva Kendra for its reissue with changes in her surname and name of spouse as the marriage between the petitioners was dissolved as per Ext. P2 and the 2nd petitioner is no more the spouse of the 1st petitioner. However, the 1st petitioner was informed that change in the surname and the name of spouse could be made while reissuing the passport only on production of the decree of divorce from a competent court.

5. The 2nd petitioner has sworn to Ext. P3 affidavit dated 23.02.2026 stating that he has no objection to the removal of his name as the surname and as the spouse of the 1st petitioner in the reissued passport.

6. The petitioners state that insistence of production of decree of divorce from the competent court for change of name of the spouse for reissuing the passport is illegal and arbitrary. Accordingly, they have filed this writ petition for a direction to respondents 2 and 3 to accept the application for reissue of passport



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to the 1st petitioner by deleting the name of the 2nd petitioner as the spouse of the 1st petitioner without insisting for production of a decree of divorce from the competent court dissolving the marriage.

7. When this writ petition came up for consideration on 09.03.2026, the learned Deputy Solicitor General of India submitted that no application for re-issuance of passport to the 1st petitioner is pending before the 2nd respondent. Accordingly, the writ petition was adjourned at the request of the petitioners. The 1st petitioner applied for reissue of passport on 14.03.2026. The 2nd respondent, the Regional Passport Officer, issued Ext. P5 communication dated 06.04.2026 stating that for deleting the spouse name while re-issuing the passport, the decree passed by the Competent Court dissolving the marriage is required. Ext. P5 communication issued by the 2nd respondent is extracted below:

“Madam,

This is to inform you that your application for the re-issue of your passport, seeking the deletion of your spouse's name, has been received and scrutinized by this office. It is noted that in support of your request for the deletion of the spouse's name, you have submitted a Deed of Dissolution of Marriage (Mubaraath Naama) dated 09.07.2025 and a mutual sworn affidavit.



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While this office acknowledges the submission of the aforementioned documents, please be informed that the processing of passport applications is strictly governed by the extant rules and guidelines issued by the Ministry of External Affairs, Government of India.

As per the MEA Office Memorandum No. VI/401/01/17/2015 dated September 6, 2024, the mandatory documentary proof prescribed for the deletion of a spouse's name from a passport is a "Divorce order / decree".

A decree or an order of dissolution of marriage can be legally recognized for this administrative purpose only when it is passed after adjudication by a competent statutory authority or court established by law. Extra-judicial settlement deeds, mutual affidavits, or certificates issued by a Qazi or Mahallu Committee do not wield the authority of a judicial decree and cannot be equated with a judgment passed by a competent court of law. Therefore, such documents do not fulfill the documentary requirements mandated by the Ministry for the deletion of a spouse's name.

In light of the above statutory instructions, this office is unable to process your request for the deletion of the spouse's name based on the currently submitted documents. You are hereby requested to produce a certified copy of a valid Divorce Decree / Order issued by a competent Family Court of Law to enable this office to proceed with your application.

Your application shall be kept on hold pending the submission of the required document."

8. A statement dated 19.05.2026 has been filed by the Deputy Solicitor General of India, wherein, referring to Annexure



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R2(a) Memorandum No. VI/401/01/17/2015 dated 06.09.2024 issued by the Ministry of External Affairs, it is stated that formal 'divorce decree/decreet' is mandatorily required for reissue of passport with deletion of spouse name. Annexure R2(a) reads as follows:

"OFFICE MEMORANDUM

Subject: Submission of documentary proof for addition/deletion/change of Spouse name in the Passport

Reference have been received regarding problems being faced by the individuals whose name are incorporated in someone else's passport as Spouse name without their knowledge.

2. As per extant policy, no proof of marriage/divorce is being taken from the passport applicant for addition/deletion/change of spouse name or for change of name/surname by female applicant due to marriage/divorce. This has resulted in many unscrupulous applicants with malafide intention taking advantage of the liberalized policy by mentioning any third person's name as spouse name in his/her passport without the knowledge of that person. It is affecting the matrimonial life, reputation and putting an innocent individual in difficult and embarrassing situation.

3. Keeping in view of the above, the following is prescribed for addition /deletion/change of spouse name in the Passport as well as change of name and surname by female passport applicants on the basis of marriage / divorce, etc.:

(I) For addition of spouse name in passport:

(a) Marriage Certificate



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or

(b) Joint Photo Declaration signed by both husband & wife

(II) For deletion of spouse name:

(a) Divorce order / decree

(III) For Change of spouse name:

(a) Divorce order/decree or death certificate of first spouse and

(b) Re-marriage certificate or Joint Photo Declaration by both husband & wife

(IV) For change of surname by women applicant following marriage/ divorce:

a) Marriage Certificate or Joint Photo Declaration by both husband & wife

(b) Divorce order / decree (if name/surname change is based on divorce)

In case of full change of name after marriage, the standard name change procedure should be followed.

4. All the Passport Issuing Authorities are requested to follow the above instructions while accepting / processing the Passport applications.

Sd/-
(Dr.K.J. Srinivasa)
Joint Secretary (PSP) & CPO"

(underlining supplied)

It is stated that Annexure R2(a) Office Memorandum was issued in view of instances of misuse of the earlier liberalised policy and that in view of the said binding instructions, the Passport Authority does



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not possess discretionary power at the processing level to accept documents such as Qazi certificates, Mahallu Committee letters, mutual settlement deeds, or Mubaraath agreements in substitution of a divorce order/decreed issued by a competent court.

9. Heard Sri.T. Madhu, the learned counsel for the petitioners and Smt. O.M. Shalina, the learned Deputy Solicitor General of India for the respondents.

10. Sri.Madhu relied on the judgment of this Court in W.P. (C) No. 34730 of 2008 (**Fathima Abdul Kareem v. State of Kerala and others**) and the decision of this Court reported in **Kanjirathingal Abdul Khader Nissar v. Passport Officer** [2009 KHC 4438] to contend that divorce by way of pronouncement of 'talak' is a mode of divorce that is accepted in the Muslim Community. Sri.Madhu also relied on the decision in **Asbi K.N. v. Hashim M.U.** [2021 (6) KHC 159] wherein the Division Bench held that extra-judicial divorce by Mubaraat mode is complete as and when both spouses enter into mutual agreement and the seal of the court is not necessary to validate such extra-judicial divorce.

11. Smt. Shalina, the learned DSGI submitted that



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Annexure R2(a) office memorandum has been issued in view of instances of misuse of earlier liberalised policy, and it prescribes specific documentary requirements to ensure authenticity and to prevent fraudulent alteration of passport records. Referring to the decision in **Asbi** (supra), the learned DSGI contends that declaration of the status of the parties by the Family Court is necessary to create a public record of the extra-judicial divorce and only such public record can be relied on by the passport authority in deleting or changing the spouse name since dispensing with proof of divorce is susceptible to misuse by applicants. The learned DSGI invited my attention to column 8(i) of the Passport Application Form (No.1) under Schedule III of the Passport Rules, 1980 which reads thus:

“8(i) If divorced/widow/widower,” please indicate the category (with documentary proof).”

Smt. Shalina submits that if the applicant is divorced, the relevant status shall be indicated in the application form and supported by documentary proof and the mandatory document proof required is a decree of divorce from a competent court. Smt. Shalina also refers to the ‘Instructions for Filling of Passport Application Form and



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Supplementary Form' under Schedule III to the Passport Rules, particularly Section 'D' thereof, which provides for the 'List of Supporting Documents', and contends that divorcees applying for change of name or deletion of the spouse's name in an existing passport are required to submit divorce order/decreed issued by a competent court. Accordingly, the learned DSGI submits that the application of the 1st petitioner, which has been kept on hold, can be processed only on production of a valid divorce decree issued by a competent court.

12. This Court, in **Fathima Abdul Kareem** (supra), held as follows:

"Authentication of divorce by competent court is one of the methods of proving a divorce or even the existence of a re-marriage. But it is not the only method. Divorce resultant upon a 'talak' pronounced by her husband is a mode of divorce that is accepted in the Muslim Community."

The said dictum was followed by this Court in the decision reported in **Kanjirathingal Abdul Khader Nissar** (supra) and held that divorce by way of pronouncement of 'talak' is a mode of divorce that is accepted in the Muslim Community and that no formal decree of divorce is necessary for deletion of the name of the Muslim divorced



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wife from the passport of the husband.

13. This Court in **Ashna Moidu v. Regional Passport Officer** [2016 SCC OnLine Ker 29117] held that divorce by pronouncing 'Talaq' is recognised mode of dissolution of marriage under the Muslim Personal Law and directed the passport authority to consider the application of the petitioner therein for deletion of the entry relating to the name of the spouse of the petitioner in the passport without insisting any court order evidencing dissolution of their marriage.

14. In **X and others v. Y and others** (supra), the Division Bench of this Court observed that there are four major forms of dissolution of marriages as recognized under Islamic Law and protected under the Shariat Act at the instance of the wife, namely;

- i. Talaq-e-tafwiz
- ii. Khula
- iii. Mubara'at
- iv. Faskh.

15. The Division Bench of this Court in **Asbi** (supra) has held that extra-judicial divorce by Mubaraat mode is complete as and when both spouses enter into mutual agreement and the seal of



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the court is not necessary to validate such extra-judicial divorce.

The Court held as follows:

“5.The unilateral extrajudicial divorce under Muslim Personal law is complete when either of the spouse pronounce / declare talaq, talaq-e-tafweez or khula, as the case may be, in accordance with Muslim Personal Law. So also extrajudicial divorce by mubaarat mode is complete as and when both spouses enter into mutual agreement. The seal of the Court is not necessary to the validity of any of these modes of extra judicial divorce. The endorsement of extrajudicial divorce and consequential declaration of the status of the parties by the Family Court invoking S.7(d) of the Act is contemplated only to have a public record of the extrajudicial divorce.”

16. What the Division Bench has stated in **Asbi** (supra) is that an extra-judicial divorce by Mubaraat becomes complete upon mutual agreement between the spouses, and the approval of the court is not required for its validity. The Court observed that the declaration by the Family Court is intended only to have a public record of the extra-judicial divorce. When it is settled law that Mubaraat is a recognised mode of divorce, the authorities under the Passports Act cannot refuse to accept a Mubaraat Naama as proof of dissolution of marriage and insist on production of a decree of divorce, though a public record such as a decree of divorce may be



desirable.

17. As regards the contention of the learned DSGI with reference to Column 8(i) of Passport Application Form No. 1 that where the applicant is divorced, the relevant status must be indicated in the application form and supported by documentary proof, and that the mandatory documentary proof required is a decree of divorce issued by a competent court, it is to be noted that the documentary proof of divorce need not necessarily be a decree of divorce from a competent court, it can be documentary proof of any mode of divorce recognized in accordance with Muslim Personal Law.

18. Section 'D' of the 'Instructions for Filling of Passport Application Form and Supplementary Form' under Schedule III to the Passports Rules referred to by the learned DSGI deals with 'List of supporting Documents' to be submitted with the application form. Section 'D.1' specifies the different categories of applicants and the corresponding document numbers required to be submitted by them. The same is provided in 'Table 2' to the Schedule. Section 'D.2' contains the overall list of documents referred to by the



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document numbers mentioned in 'D.1', and the same is provided in 'Table 3'. Under Table 2, "Divorcees applying for change of name or for deletion of spouse's name in existing passport" are required to submit 'Document Nos. 5 and 48' specified in Table 3. Document No. 5 in Table 3 reads as follows:

"Old Passport in original with self-attested photocopy of its first two and last two pages, including ECR/Non-ECR page (previously ECNR) and the page of observation (if any), made by Passport Issuing Authority and validity extension page, if any, in respect of short validity passport."

Document No. 48 in Table 3 reads as follows:

"Deed poll/sworn affidavit as per Annexure 'E'."

Annexure 'E' to Schedule III of the Passports Rules provides for an affidavit for change of name/surname. Under Table 2, where the divorce decree is issued by a Qazi, the applicant is required to submit 'Document Nos. 36 or 37'. Document No. 36 in Table 3 reads as follows:

"Court certified copy of Divorce decree".

Document No. 37 in Table 3 reads as follows:

"Self-attested copy of Divorce certificate".

It is pertinent to note that nowhere in the 'Instructions for Filling of Passport Application Form and Supplementary Form', or in the



Tables appended thereto, is a divorcee applying for change of name or deletion of the spouse's name in an existing passport required to submit a decree of divorce issued by a competent court. Since a decree of divorce issued by a Qazi is not a form of dissolution of marriage recognised under Islamic law, the applicant is required to submit a court certified copy of the divorce decree under Table 3. However, the same is not required in the case of Mubaraat.

19. In this context, it is pertinent to note that Section IV of the Passport Information Booklet under Schedule III to the Passport Rules, 1980 deals with the "Documents to be attached with the application". Section IV(B) reads as follows:

"IV(B) CHANGE OF NAME/ADDITION OF SPOUSE'S NAME
IN PASSPORT ON RE-ISSUE BASIS

I. Following marriage, remarriage or divorce:

- (a) An applicant applying for re-issue of passport for incorporation of the name of his/her spouse;
- (b) A woman applying for change of name/surname in existing passport due to marriage;
- (c) Divorcees applying for change of name OR for deletion of spouse's name in existing passport;
- (d) Re-married applicants applying for change of name/spouse's name in passport;

Except the details provided by the applicant (of any category mentioned above) in the application form, no proof of marriage/dissolution of marriage (Court's order for judicial separation/decreed of divorce), etc. is required.



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(II) In other circumstances for change of name, the applicant (both male and female) should furnish:

(i) clippings of two local news papers or the Gazette notification of the concerned State Government, as the case may be;

(ii) at least two public/school documents issued in the desired/applied changed name to ascertain that the applicant has actually changed his name."

(underlining supplied)

Thus, divorcees applying for change of name or for deletion of spouse's name in existing passport are not required to produce court's order for judicial separation/decreed of divorce. The Schedule to the Rules forms part of the Rules. The statute dispenses with the requirement of producing documentary proof of marriage or dissolution of marriage, including a decree of divorce, for change of name or deletion of the spouse's name in the passport. It is well settled that executive instructions or office memorandums cannot override, amend, or supersede statutory rules. When the statute does not mandate the production of proof of dissolution of marriage for deletion of the spouse's name from the passport, such proof cannot be insisted upon through an office memorandum in the nature of Annexure R2(a).



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20. Accordingly, there will be a direction to the 2nd respondent to process the application of the 1st petitioner for reissue of passport by deleting the name of the 2nd petitioner as the spouse of the 1st petitioner, without insisting on production of a decree of divorce from the competent court, and in accordance with law and pass appropriate orders, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

It is made clear that this Court has, in this writ petition, considered only the case of divorcees applying for change of name or deletion of the spouse's name in an existing passport, and that this judgment shall not be construed as laying down any general proposition applicable to other categories of applicants.

The writ petition is allowed as above.

Sd/-

MURALI PURUSHOTHAMAN, JUDGE

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APPENDIX OF WP(C) NO. 7780 OF 2026

PETITIONER EXHIBITS

- EXHIBIT P1 THE TRUE COPY OF THE RELEVANT PORTION OF THE INDIAN PASSPORT BEARING NO.N6021485 ISSUED BY THE 2ND RESPONDENT TO THE FIRST PETITIONER
- EXHIBIT P2 THE TRUE COPY OF MUBARAATH NAAMA DATED 09.07.2025 EXECUTED BETWEEN THE PETITIONERS IN THE PRESENCE OF WITNESSES
- EXHIBIT P3 THE AFFIDAVIT DATED 23.02.2026 SWORN IN BY THE 2ND PETITIONER
- EXHIBIT P4 THE TRUE COPY OF THE RECEIPT DATED 14.03.2026 SHOWING THE RECEIPT OF ONLINE APPLICATION FOR RE-ISSUE OF PASSPORT
- EXHIBIT P5 THE TRUE COPY OF THE COMMUNICATION DATED 06.04.2026 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER

RESPONDENT ANNEXURES

- ANNEXURE R2 (A) A TRUE COPY OF THE MINISTRY OF EXTERNAL AFFAIRS OFFICE MEMORANDUM NO. VI/401/01/17/2015, DATED 06/09/2024