

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

MONDAY, THE 10TH DAY OF AUGUST 2026 / 19TH SRAVANA, 1948

WP(C) NO. 7305 OF 2026

PETITIONER:

BY ADVS.
SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE SECRETARY, MINISTRY OF
EXTERNAL AFFAIRS, SOUTH BLOCK,
CENTRALSECRETARIAT, NEW DELHI, INDIA,
PIN - 110004
- 2 THE REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, ERNAKULAM,
PIN - 695024

*ADDL.R3

*(ADDL.R3 IS IMPEADED AS PER ORDER DATED
07/04/2026 IN IA 2/2026 IN WP(C) 7305/2026

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

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10.08.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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J U D G M E N T

The petitioner is the holder of an Indian passport with validity up to 05.04.2032. The petitioner was married to the 3rd respondent on 22.07.2021 according to religious rites and ceremonies prevailing among Muslim Community at Mathilakam Mahal Jama-At-Committee. The name of the husband was entered in the spouse column in the passport of the petitioner.

2. The relationship between the petitioner and the 3rd respondent became estranged and the marriage was dissolved by mutual consent. An agreement was executed between the petitioner and the 3rd respondent whereby talaq was agreed to be pronounced. Talaq was first pronounced on 09.10.2025 followed by the 2nd and 3rd pronouncement on 09.11.2025 and on 09.12.2025, evidenced by Exts.P2 to P4.

3. The petitioner submitted application for re-issuance of passport with deletion of spouse name, evidenced by Ext.P5 online application receipt. However, the application was not entertained stating that the petitioner has not produced divorce order from court. The said reason was endorsed on Ext.P5.

4. The petitioner states that the reason for not



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entertaining her application for re-issuance of passport with deletion of name of her husband is illegal as it violates the provisions of the Passport Rules. Accordingly, this writ petition is filed for re-issuance of passport to the petitioner after deleting the spouse name.

5. A statement has been filed by the Deputy Solicitor General of India on behalf of respondents 1 and 2. Paragraphs 4 and 5 thereof read as follows:

"4. It is most humbly submitted that though the government had liberalised the process of issuance of passport through a slew of measures introduced in the year 2016, these procedures have been abused by very many applicants to the detriment of unsuspecting persons.

5. Consequently, the competent authority in the Ministry issued OM No. VI/401/01/17/2015 dated 06.09.2024 in which vide para (II)(a), Divorce Order/Decree has been made mandatory for deletion of spouse name. The true copy of the OM No. VI/401/01/17/2015 dated 06.09.2024 has been produced herewith and marked as Annexure R2(a). The respondents being subordinate to the competent authority have to comply with these directions and hence a divorce order/decreed from a competent court is mandatory if the petitioner wants passport issued after removing the spouse's name."

6. Annexure R2(a) reads as follows:

"OFFICE MEMORANDUM

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



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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
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



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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."

(underlining supplied)

7. Heard the learned counsel for the petitioner and the
learned Deputy Solicitor General of India for respondents 1 and
2. Though service of notice to the 3rd respondent is complete,
there is no appearance.

8. Divorce resulting from a 'talak' pronounced by the
husband is a mode of divorce recognised and accepted under
Muslim personal law. In **X and others v. Y and others**, [2021
(2) KHC 709 : 2021 (2) KLT 967 : ILR 2021 (2) Ker. 493], 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



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9. This Court, in the judgment rendered in W.P. (C) No. 34730 of 2008 (**Fathima Abdul Kareem v. State of Kerala and others**), 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."

10. The said dictum was followed by this Court in the decision reported in **Kanjirathingal Abdul Khader Nissar v. Passport Officer**, [2009 KHC 4438] 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 wife from the passport of the husband.

11. 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



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spouse of the petitioner in the passport without insisting any court order evidencing dissolution of their marriage.

12. In this context, it is pertinent to note that Section IV of the Passport Information Booklet under Schedule III to the Passports 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 / decree of divorce), etc. is required.

(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)



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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 / decree 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).

13. This Court in **Ayshath Bunayath v. Union of India** [2026 (4) KHC 148 : 2026 (3) KLT 646] held that passport authorities cannot refuse to accept a Mubaraat Nama as proof of dissolution of marriage and insist on a decree of divorce, since Mubaraat is a recognised mode of divorce under Muslim Personal Law. Divorce resultant upon 'talaq' pronounced



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by the husband is a mode of divorce that is accepted in Muslim Community.

14. Accordingly, there will be a direction to the 2nd respondent to consider the application of the petitioner for re-issuance of passport with deletion of name of spouse, 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.

The writ petition is disposed of.

Sd/-

**MURALI PURUSHOTHAMAN
JUDGE**

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APPENDIX

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE PASSPORT OF THE PETITIONER DT.6.4.2022
Exhibit P2	THE TRUE COPY OF THE LETTER OF COMMUNICATION OF 1ST TALAQ DT. 9.10.2025
Exhibit P3	THE TRUE COPY OF THE LETTER OF COMMUNICATION OF 2ND TALAQ DT. 9.11.2025
Exhibit P4	THE TRUE COPY OF THE LETTER OF COMMUNICATION OF 3RD TALAQ DT. 9.12.2025
Exhibit P5	THE TRUE COPY OF THE ONLINE APPOINTMENT RECEIPT WITH THE ENDORSEMENT DT.11.2.2026

RESPONDENT ANNEXURES

ANNEXURE R2 (A)	TRUE COPY OF THE OM NO. VI/401/01/17/2015 DATED 06.09.2024 ISSUED BY MINISTRY OF EXTERNAL AFFAIRS (PSP DIVISION)
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