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At the Supreme Court Sitting as the High Court of Justice

HCJ 8134/14

Before:

**Honorable Deputy President E. Rubinstein
Honorable Justice S. Joubran
Honorable Justice N. Hendel**

The Petitioners:

1. ___ Abu Jamal
2. ___ Abu Jamal
3. ___ Abu Jamal
4. ___ Abu Jamal
5. **HaMoked - Center for the Defence of the Individual, founded by Dr. Lotte Salzberger-RA**

v.

The Respondents:

1. **Minister of Interior**
2. **Chair of the Advisory Humanitarian Committee to the Minister of Interior**
3. **Head of Population and Immigration Authority**
4. **Israel Police**

Petition for *Order Nisi* and request for an Interim Order

Session Date:

Av 6, 5775 (July 22, 2015)

Representing the Petitioners:

Adv. Benjamin Agsteribbe; Adv. Abir Jubran

Representing the Respondents:

Adv. Nachi Ben Or

Judgment

Deputy President E. Rubinstein:

The above petition concerns the decision of the Minister of Interior not to grant petitioner 1 a stay permit in Israel. Petitioner 1, the widow of one of the perpetrators of the murders which were committed on

November 18, 2014, in the *Har Nof* synagogue in Jerusalem, is a resident of the Area who lived in Israel by virtue of stay permits when she was married to her husband who was a permanent Israeli resident. Her three children (petitioners 2-4) are permanent residents. The petition argued that for humanitarian reasons and in view of the health condition of two of the three children, as well as according to international conventions, there are grounds for intervention in the decision so that the children, who join their mother, would not have to relocate to the Area.

It should be noted here for the sake of good order that the respondents notified, in view of the concern which was raised in the petition, that the permanent residency status of the children would not be prejudiced even if they relocate to the Area (obviously should the family desire, they can remain in Jerusalem together with other family members, but we assume that they will want to join their mother). We noted before us the above as stated by the respondents. This court has already held in the past (AAA 7088/03 **Mahamid v. Minister of Interior** (2004)) that under such circumstances, in the absence of a family unit "a foreign resident does not have a right to receive status in Israel by virtue of his children, because 'A minor is dependent on his parents and his parents are not dependent on him' " (Justice Hayut), all based on previous judgments.

Nevertheless we have examined several issues, such as the ability of petitioner 1 to visit Israel – while accompanying the children for visits of the father's family or for medical treatments, and the possibility to renew petitioner 1's application after a passage of time and change of circumstances, medical insurance issues, etc. The respondents expressed their willingness to examine these issues, to the extent they arise, with an open heart. We shall add on our part, that there is room for flexibility on the part of the respondents in connection with the mother's entry for the purpose of accompanying the children for visits or medical treatments; and despite the fact that we do not express now an opinion concerning the interpretation of the question of who can lawfully initiate the renewal of petitioner 1's application, and concerning issues pertaining to the children's medical insurance under the circumstances – it may be fairly assumed that the respondents will consider the matter willingly as may be required, according to their statement. It was agreed that the petitioner would not be expelled until October 1, 2015.

Subject to the above the petition is deleted without an order for costs

Given today, Av 6 5775 (July 22, 2015)

Deputy President

Justice

Justice