

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(Crl.).No. 117 of 2015 (S)

PETITIONER:

RAJESH, S/o VIJAYAN,
RAJESH BHAVAN, KARUVELIL P.O.,
EZHUKONE, PAVITHRESWARAM VILLAGE,
KOTTARAKKARA TALUK, KOLLAM
REP. FOR ARJUN AND ADARSH AS THEY ARE MINORS.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

1. THE STATE POLICE CHIEF, POLICE HEADQUARTERS,
VAZHUTHACAUD P.O.,
THIRUVANANTHAPURAM - 695014.
2. THE DISTRICT POLICE CHIEF, KOLLAM RURAL,
DISTRICT POLICE HEAD QUARTERS, KOTTARAKKARA P.O.,
KOLLAM - 691 506.
3. THE CIRCLE INSPECTOR OF POLICE, EZHUKONE,
EZHUKONE P.O.,
KOTTARAKKARA, KOLLAM - 691 505.
4. THE STATION HOUSE OFFICER, EZHUKONE POLICE STATION,
EZHUKONE PO., KOTTARAKKARA, KOLLAM - 691505.
5. SRI.AYYAPPAN, S/O RAMACHANDRAN, T.C. NO.13/1827-31,
MEGHANAR, ARRRA-166, KALAKAUMUDHI ROAD,
MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM - 695011.
6. SRI.SURENDRAN, S.S. BHAVAN, BHARATHIPURAM P.O.,
THINGALKARIKKOM VILLAGE, ANHAL, KOLLAM - 691330.
7. SMT.SANTHA, W/O SURENDRAN, S.S. BHAVAN,
BHARATHIPURAM P.O, THINGALKARIKKOM VILLAGE,
ANCHAL, KOLLAM - 691330.

BY GOVERNMENT PLEADER SRI.JOBY JOSEPH

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1:- THE TRUE COPY OF THE MEDICAL RECORDS OF THE PETITIONER'S ELDER SON MINOR ARJUN.

EXT.P2:- THE TRUE COPY OF THE DISABILITY CERTIFICATE OF THE PETITIONER'S YOUNGER SON MINOR ADARSH.

EXT.P3:- THE TRUE COPY OF THE ORDER DATED 31/12/2013 IN OP (HMA) NO.677/2013 OF THE FAMILY COURT, KOTTARAKKARA.

EXT.P4:- THE TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE PETITIONER AND MS.ANJU DATED 21/06/2013 BEFORE THE FAMILY COURT, KOTTARAKKARA.

EXT.P5:- THE TRUE COPY OF THE CERTIFICATE OF MARRIAGE BETWEEN MS. ANJU AND THE 5TH RESPONDENT.

EXT.P6:- THE TRUE COPY OF THE APPLICATION DATED 05/03/2015 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT AND ITS POSTAL RECEIPT.

.....

**K. T. SANKARAN
&
BABU MATHEW P. JOSEPH, JJ.**

W. P. (Crl.) No.117 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

K. T. Sankaran, J.

The petitioner married Anju, daughter of respondents 6 and 7. Two children were born in that wedlock. They are, Master Arjun and Master Adarsh, now aged 8 years and 6 years respectively. It is stated that the children are suffering from Attention Deficient Hyper Activity Disorder (ADHD) and Obsessive Compulsive Disorder and Developmental Delay Hyper Activity having 60% disability.

2. The marriage between the petitioner and Anju was dissolved as per a joint petition filed under Section 13 B of the Hindu Marriage Act. There were several other cases also between the parties. All the cases were settled and a Memorandum of Agreement was executed between the parties in the mediation. As per the mediated agreement,

the custody of the children shall be with the petitioner.

3. The case of the petitioner is that the children want to see their mother Anju, and respondents 5 to 7 are not permitting the children to interact with Anju. The reliefs prayed for in the Writ Petition are the following:

- “i. To issue a writ of Habeas Corpus or any other appropriate writ, order or direction commanding the Respondents 1 to 4 to get produce Ms.Anju, mother of the minor children Arjun and Adarsh representing the Petitioner before this Hon'ble Court from the illegal custody of the Respondents 5 to 7 and their henchmen to see their mother Ms.Anju for their welfare and recovery of the illness Attention Deficient Hyper Activity Disorder (ADHD) and Obsessive Compulsive Disorder and Developmental Delay Hyper Activity.
- ii.To Issue a writ of mandamus or other appropriate writ, order or direction commanding the Respondents 1 to 4 to permit the minor children Arjun and Adarsh representing the Petitioner to see their mother Ms.Anju every time for their welfare and recovery of the illness Attention Deficient Hyper Activity Disorder (ADHD) and Obsessive Compulsive Disorder and Developmental Delay Hyper Activity without any objection from Respondents 5 to 7 and their henchmen or anybody.
- iii.To issue such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of

the case.”

4. We do not think that the reliefs prayed for in the Writ Petition can be granted in a Writ Petition for issue of Habeas Corpus. It cannot be said that Anju is under the illegal detention of respondents 5 to 7. There is no case that Anju wanted to see the minor children, but she was prevented from doing so. Therefore, we do not find any reason to issue notice to the respondents.

Writ Petition is accordingly, dismissed.

Sd/-
K. T. SANKARAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

