

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P.No.1467/2015

Bharathi

... Petitioner

vs.

1. The Commissioner of Police
O/o.The Commissioner of Police
Vepery, Chennai 600 007.
2. The Inspector of Police
S5 Pallavaram Police Station
Chennai 600 043.
3. Mr.M.Suresh @ Manikandan
4. Mrs.Susila
5. Mrs.Nagavalli

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus petition directing the respondent police for production of the petitioner's daughter Minor Lakshanya, aged 7 years, before this Court and order her release.

For Petitioner : Mr.S.Nambi Arooran

For R1& R2 : Mr.A.N.Thambidurai,
Additional Public Prosecutor

For R5 & Detenue : Mr.Kumar Taheja

ORDER
(Order of the Court was made by S.TAMILVANAN, J.)

Invoking Article 226 of the Constitution of India, the petitioner/mother of the minor detinue Lakshanya, aged about 7 years, has filed this petition to secure his daughter, who is said to be in the illegal custody of the respondents 3 to 5, who are the brother-in-law, his wife and the mother-in-law of the petitioner herein and to hand over her custody to the petitioner herein.

2. Heard the learned counsel for the petitioner ; learned Additional Public Prosecutor appearing for the respondents 1 and 2 ; and the learned counsel appearing for the 5th respondent and the detinue.

3. It is alleged that the husband of the petitioner herein/son of the 5th respondent is said to have committed suicide on 06.03.2015 and a case was also registered in that regard and the investigation is said to be pending. In the interregnum, the respondents 3 to 5 are said to have taken the detinue Lakshanya into their custody from the date of the death of the petitioner's husband and that the petitioner, being the natural guardian, is being prevented from seeing her child. Hence, having no other alternative remedy, the petitioner has approached this Court by filing the present Habeas Corpus Petition.

4. Today the detinue Lakshanya, is produced before this Court by the 5th respondent/grandmother of the detinue. The petitioner/mother of the detinue is also present before us.

5. On enquiry, the 5th respondent has expressed her no objection in handing over the detinue to her mother, the petitioner herein, who is present before this Court today. The petitioner has also accepted to take her daughter with her. Though this Court is able to see that the child is more affectionate to her grandmother/the 5th respondent herein as she was in her custody for a period of 3 months since the death of her father, the petitioner being the natural guardian cannot be denied of her right in having the child. Hence, this Court finds it just and reasonable to hand over the minor child Lakshanya to her mother/the petitioner herein.

6. Accordingly, the child Lakshanya, a minor, is directed to be handed over to the petitioner/her mother. We make it very clear that the 5th respondent herein being the paternal grandmother of the child is also entitled to have visitation rights to see the child either at

the residence of the petitioner or at the school. We also further make it clear that the petitioner or any other person should not prevent the 5th respondent from seeing the child.

7. With the above directions, the Habeas Corpus Petition is ordered.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Commissioner of Police
O/o. The Commissioner of Police
Vepery, Chennai 600 007.
2. The Inspector of Police
S5 Pallavaram Police Station
Chennai 600 043.
3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.Nambi Arooran, Advocate, S.R.No.31213

H.C.P.No.1467/2015

BVR(CO)
CA(13/07/2015)

सत्यमेव जयते
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