

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2015

CORAM

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

H.C.P. No.2001 of 2015

M.Vijayakumar

... Petitioner/Father of
the detenu

-v-

1.The State rep. by
The Commissioner of Police,
Greater Chennai.

2.The Inspector of Police,
Korattur Police Station,
Chennai.

3.Mahendrakumar @ Rakesh

4.Meena

5.Paster P.C.Geoffrey

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus to produce the body of the minor girl Madhumitha, from the illegal custody of respondents 3 to 5 and to hand over the custody to the petitioner as a natural guardian forthwith.

For Petitioner: Mr.R.Sreerangan

For Respondents: Mr.A.N.Thambi Durai
APP for R1 and R2
Dr.S.N.Amarnath for R3 to R5

ORDER

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

This petition has been filed by the petitioner seeking an order directing the respondents 1 and 2 to secure the presence of the minor girl Madhumitha, daughter of respondents 3 and 4 and to hand over the custody to the petitioner.

2.It is submitted by the learned counsel for the petitioner that when the girl was three day's old, it was taken by the petitioner, who is the uncle of the third respondent and that now the girl is aged 7 years.

3.It is not in dispute that respondents 3 and 4 are biological parents of the minor girl. The aforesaid ground would not be construed as a right acquired by the petitioner against the biological parents viz. respondents 3 and 4. Learned counsel for the petitioner would submit that biological parents were attempted to sell the child to some other person and the same was prevented by the petitioner. The disputed question raised by the learned counsel for the petitioner cannot be gone into by this Court, which is dealing with the Habeas Corpus Petitions. As there is no legal right available to the petitioner to seek the custody of the minor girl from her biological parents, we are of the view that this petition is not legally sustainable. Accordingly, this petition is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vga
To

1.The Commissioner of Police,
Greater Chennai.

2.The Inspector of Police,
Korattur Police Station,
Chennai.

3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+ 2 ccs to Mr.Dr.S.N. Amarnath, Advocate SR.51142

H.C.P. No.2001 of 2015

SAI (CO)
Eu 08.10.15