

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.641 of 2016

K.Umadevi

.. Petitioner

vs.

1. The Superintendent of Police,
Dharmapuri District,
Dharmapuri.

2. The Inspector of Police,
Palacode Police Station,
Palacode,
Dharmapuri District.

3. A.Suresh

4. The Principal,
Kamalam International School,
Nadhuhalli, Old Dharmapuri,
Dharmapuri District.

..... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to direct the respondents to produce body of the body of Ponmalar and Viswa, aged about 8 and 5 years respectively, before this Court.

For Petitioner .. Mr.I.Abrar Md Abdullah,

For Respondents .. Mr.V.M.R.Rajentren,
Additional Public Prosecutor,
for R1 & R2
Mr.K.Shanthini Devi, for R3
Mr. S.Saravana Kumar, for R4

O R D E R

(The order of the Court was made by V.BHARATHIDASAN.,J)

The petitioner is the mother of the minor children, namely, Ponmalar and Viswa, aged about 8 and 5 years. The third respondent is

her husband. On 16.03.2016, the third respondent illegally taken the children from the school. Hence, he gave a complaint to the first respondent on 17.03.2016. Since no action was taken by the first respondent, the petitioner has come up with this petition.

2. Today, the third respondent along with one minor Ponmalar have made appearance before this Court. Since, minor Viswa was not well, he was not brought before this Court. On enquiry, the minor girl categorically stated that she is not willing to go with her mother. Since there is a dispute between the petitioner and the third respondent, in order to settle the dispute between themselves, the matter was referred to mediation and in the mediation center, they are unable to arrive at an amicable settlement and hence, mediation failed and the matter was remitted back to this Court.

3. Heard Mr.I.Abrar Md Abdullah, the learned counsel for the petitioner and Mr.V.M.R.Rajentren, Additional Public Prosecutor appearing for the respondents 1 and 2 and Mr.K.Shanthini Devi, learned counsel appearing for the third respondent and Mr. S.Saravana Kumar, learned counsel appearing for fourth respondent.

4. The dispute is relating to custody of minor and the Court has to decide the welfare of the minor. Today, the minor girl categorically stated that she is not willing to go with her mother and she requested to go with her father. Now, the children is only in the custody of their father. Hence, we are of the considered view that the custody is not illegal. Therefore, the petition deserves to be dismissed. Accordingly, the Habeas Corpus Petition stands dismissed. However, it is always open to the parties to approach the civil Court to get a suitable order in respect of custody of minor children.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Superintendent of Police,
Dharmapuri District,
Dharmapuri.
2. The Inspector of Police,
Palacode Police Station,
Palacode,
Dharmapuri District.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.I.Abrar md Abdullah, Advocate,SR.33100

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H.C.P.No.641 of 2016



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