

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.6.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.768/2016

Mrs. Indhumathi

.. Petitioner

Vs

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

2. Mr.Kalaniyappan

3. Mr.Shanmugam

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the 1st and 2nd respondent herein to produce petitioners children 1. Nithya (aged about 8 years) and Nithish (aged about 6 years) before this Honble Court and set them at liberty.

For Petitioner :

Mr.S.Arivazhagan

For R1 :

Mr.V.M.R.Rajentren,

Additional Public Prosecutor

Mr.Kanimozhimathi for R3

ORDER

[Order of the Court was made by V.BHARATHIDASAN,J]

The petitioner is the mother of two minor children, viz., Nithya and Nithish. On the allegation that the third respondent, who is none other than her father had kidnapped the children and kept with him, the present Habeas Corpus Petition has been filed. The matter was referred to the mediation and conciliation and mediation failed. Hence, the matter was once again posted before this Court.

2. The learned counsel for the petitioner would submit that the petitioner earlier married one Senthil kumar and he died on 04.02.2013. Thereafter, she got married to one Vasanthamurugan. Hence, the third respondent, father of the petitioner took the

two minor children and kept them under his custody. The petitioner claimed that she being the guardian of the minor children has got more right over him.

3. It is well settled that in Habeas Corpus Petition jurisdiction, question of matrimonial life cannot be gone into. The welfare of the minor children is of paramount consideration. Now, the children are in the safe custody of the father of the petitioner. It is open to the petitioner to seek remedy in the civil court for the legal custody of the minor children.

4. With this observation, the petition is dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

kua
To

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

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.S.Arivazhagan Advocate sr.31382

+1 cc to Mrs.Kanimozhimathi Advocate sr.31294

H.C.P.No.768/2016

aa22/06/2016

WEB COPY