

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.11.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDHER
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1110 of 2017

Mr.N.Haribabu

... Petitioner

Vs.

1. State rep. By
The Commissioner of Police,
Coimbatore Corporation,
Coimbatore.
 2. State rep. By
Inspector of Police,
Singanallur Police Station,
Coimbatore District.
 3. Mr.R.Shanmugasundaram
 4. Mrs.S.Sukandha Lakshmi
- ...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the second respondent herein to produce the body of the detinue of the petitioner's minor female child by name Kundavai aged 6 years from the illegal custody of the third and fourth respondents before this Court and handover the custody to the petitioner at once.

For Petitioner : Ms.B.Shantha
For Respondents : Mr.V.M.R.Ranjetroan
Additional Public Prosecutor
- R1 & R2
Mr.R.Babu - R3 & R4

O R D E R

(Order of the Court was made by RAJIV SHAKDHER, J)

1. The petitioner in this case is the father of the detainee/Ms. Kundavai. The detainee/Ms.Kundavai is aged six (6) years. Presently, the detainee/Kundavai is in the custody of respondent nos.3 and 4. The respondents 3 and 4 are the maternal grand parents of the detainee/Ms. Kundavai. The mother of the detainee/Ms. Kundavai namely, Ms.Sathyapriya allegedly committed suicide. Her death took place on 16.03.2014.

2.The records as placed before us, show that, the respondents nos. 3 and 4 had initiated proceedings in the Court of the Additional Principal Family Judge, Coimbatore, under sections 7,8,9 and 10 of the Guardian Wards Act, r/w. Section 25 of the Hindu Minority and Guardianship Act, 1956, to secure the custody of the detainee/Kundavai. In those proceedings, an interim order dated 19.01.2016 was passed by the concerned judge, allowing the petitioner herein to interact with the detainee/Ms. Kundavai on every first and fourth Friday of the month.

3. The respondent nos.3 and 4 were, thus, directed to bring the child to the Court premises. The records further shows that due to non-appearance on 05.05.2017, the said proceedings were dismissed for default by the learned Judge.

3.1. We are told by the Mr.C.S.Saravanan, advocate, who appears for the respondent nos.3 and 4 that, an application has been filed to restore the Guardianship petition. We are also told that, no orders have been passed as yet on the application for restoration, filed on behalf of the respondents 3 and 4. This application, according to the record placed, before us is numbered as I.A.Nos.42 of 2017.

4. We have interacted with the detaineechild/Ms.Kunthavai. Presently, it appears that, the detainee/child is quite comfortable in the company of the respondent nos.3 and 4. Therefore, it cannot be said, at least in these proceedings that, she is in illegal custody of the respondent nos.3 and 4. As regards the immediate grievance of the petitioner that he is not allowed to interact with the detainee/Ms.Kundavai at all, we put this aspect to the respondent nos.3 and 4, and therefore asked them whether they would be agreeable to the suggestion of bringing the detainee/child, to the office of the Tamilnadu Legal Services Authority (DLSA), Coimbatore, for interaction with the petitioner. The respondent nos.3 and 4 responded positively to the suggestion and said that they would have no objection to such an arrangement being put in place by the Court.

5. Accordingly, as agreed, respondent nos.3 and 4 would bring the detainee/child Ms.Kundavai to the DLSA Office at Coimbatore, on the first and fourth Friday of each month at 5.00 p.m. The petitioner will be allowed to interact with child uninterrupted by the respondent nos.3 and 4 between 5.00 p.m. and 6.30 p.m. on those days.

6. The Member Secretary, DLSA, Coimbatore, will supervise the meetings. If the Secretary, DLSA, Coimbatore, is of the view that the child is unwilling to interact with the father and the meeting is causing more trauma to the child, rather than helping her, then he would approach this Court for variation of the order, by filing a report in that behalf.

7. This petition is closed, in afore mentioned terms.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ggs/vrc

To

1. The Commissioner of Police,
Coimbatore Corporation,
Coimbatore.
2. Inspector of Police,
Singanallur Police Station,
Coimbatore District.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.B.Shanthi Advocate sr 84832
+1 cc to M/s.R.Babu Advocate sr 85262

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