

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.1118 of 2017

B.Gomathi ... Petitioner

-Vs-

- 1.The District Collector,
Kancheepuram District,
Kanchipuram.
 2. The District Superintendent of Police,
Kancheepuram District,
Kancheepuram.
 3. The Chairman,
Child Welfare Committee (CWC)
Chenglaput, Kancheepuram District.
(amended as per order dt.25.07.2017 made in
Crl.M.P.No.9283/2017 in H.C.P.No.118 of 2017)
 - 4.The Inspector of Police,
All Women Police Station,
Kancheepuram District.
 - 5.Kannadasan,
No.39, Thodur Village,
Nirudur Post, Kancheepuram District.
 - 6.Holy Apostles Convent,
Butt Road, St. Thomas Mount,
Chennai 600 016.
(R6 impleaded as per order
dated 24.11.2017)
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to direct the third respondent to produce the detinue Mahalakshmi, aged 10 months (Minor) before this Court and entrust the custody of the child to the petitioner herein to secure the ends of justice.

(Amended as per order dt.25.07.2017 made in
Crl.M.P.No.9136/2017 in H.C.P.No.118 of 2017).

For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mr.V.M.R.Rajentran
Addl. Public Prosecutor for R1, R2 & R4

Ms.Shaikh Mehrunisa for R3

Mr.K.Francis for R5.

O R D E R

[Order of the Court was made by RAJIV SHAKDHER, J.]

1. Pursuant to the last order dated 24.11.2017, Sister Philo Mary and Sister Thersiamma of Holy Apostles Convent i.e., respondent No.6, have appeared before us.

1.1. They placed before us a certified copy of the order dated 29.11.2017, passed in O.P.No.900 of 2017. As per the order, the minor female child, by the name, Akhila, has been given adoption to Mr.Ashish Vikram Singh and Mrs.Latika Neelakantan, residing at 30 C, Green View Apartments, Sector 15 A, Noida, U.P. - 201 301.

1.2. The petitioner, before us, claims to be the biological mother of the child. According to the petitioner, the name of the child is Mahalakshmi.

2. Respondent No.6, however, has informed us that Child Welfare Committee, Chengleput had declared Akhila as free for adoption on 16.06.2017.

2.1. A copy of the order dated 16.06.2017, has been shown to us.

2.2. We are further informed by respondent No.6 that prior to declaring the child free for adoption under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, an advertisement was issued on 22.03.2017 in Malai Malar, by respondent No.6.

3. Therefore, the stand of respondent No.6, is that the child having been legally adopted by Mr.Ashish Vikram Singh and Mrs.Latika Neelakantan, no further orders can be passed in the present position.

4. Ms.Shaikh Mehrunisa, Advocate, who appears for the Child Welfare Committee (CWC), Chengleput also says that no orders can be passed in the present petition, in view of the order dated 29.11.2017 passed in O.P.No.900 of 2017. We may note that the

Chair person of Child Welfare Committee (CWC), Chengleput, is also present in Court.

5. On the other hand, Mr.R.Sankarasubbu, counsel for the petitioner, says, that the adoption proceedings were hastened and the order was passed after the present petition had been filed.

5.1. The record shows that the present petition was filed on 29.06.2017.

6. Notice in this petition was issued on 04.07.2017. The record also shows that initially, the petitioner had, in fact, impleaded, albeit wrongly, the Chairperson of Government Special Home (Juvenile), Chengleput, Kancheepuram District. On realising the error, a correction was made and the Child Welfare Committee (CWC), Chengleput, was arrayed as a party.

7. It appears that, we had, on 24.11.2017, directed the presence of the Superintendent of the Government Home, an error, which was corrected vide order dated 03.11.2017.

8. It was only on 24.11.2017, as indicated above, after hearing arguments, we had directed impleadment of Holy Apostles Convent and also directed the presence of Chair person of Child Welfare Committee (CWC), Chengleput.

9. The aforesaid, facts, pertaining to adoption of the child, thus, have come forth only today.

10. Given the aforesaid circumstances, we are of the view, that no orders can be passed in the captioned petition. Liberty, though, is given to the petitioner to take recourse to an appropriate remedy, albeit, in accordance with law. Since rights of the adoptive parents appear to have accrued in the meanwhile, in our view, they would have to be heard by an appropriate forum in the proceedings, if any, taken out by the petitioner.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1.The District Collector,
Kancheepuram District,
Kanchipuram.
2. The District Superintendent of Police,
Kancheepuram District,
Kancheepuram.
3. The Chairman,
Child Welfare Committee (CWC)
Chenglaput,
Kancheepuram District.
- 4.The Inspector of Police,
All Women Police Station,
Kancheepuram District.
- 5.Holy Apostles Convent,
Butt Road, St. Thomas Mount,
Chennai 600 016.

+2cc to Mr.M.R.SANKARA SUBBU Advocate, S.R.No. 89602

H.C.P.No.1118 of 2017

SK(CO)
TR(19/12/2017)



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