

In the High Court of Judicature at Madras

Dated : 21.6.2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO

and

The Honourable Mr.Justice S.M.SUBRAMANIAM

Habeas Corpus Petition No.790 of 2017

D.Sathishkumar ...Petitioner

Vs

1.State, rep.by Inspector of Police,
W-18, All Women Police Station,
MKB Nagar, Vyasarpadi, Chennai-39.

2.S.Rajathi

3.S.Sathishkumar ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Habeas Corpus directing the respondents to produce the body of the petitioner's daughter S.Varsha, aged about 9 years, D/O D. Sathishkumar and the petitioner's son S.Santhosh, aged about 7 years, S/O D. Sathishkumar, before this Court and set them at liberty.

For Petitioner : Mr.D.Chandrakumar

For Respondent-1 : Mr.V.M.R.Rajendran, APP

For Respondents 2 & 3 : Dr.G.Krishnamurthy

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

This Habeas Corpus Petition is moved by one Sri.D.Satishkumar, S/O Devendran, residing at Vyasarpadi locality of Chennai City for causing production of his minor children bearing names Varsha and Santhosh.

2. It is alleged by the writ petitioner that he fell in love with one Sandhiya and married her in the year 2006 and two children bearing names Varsha and Santhosh were born to them on 30.9.2007 and 18.6.2009 respectively, that his wife met with a

fire mishap on 02.6.2016 and ultimately succumbed to the burn injuries on 06.6.2016 and that after the 16th day ceremony was performed, the parents of his wife have taken away his two children along with them. But, those two children have not been restored to the custody of the writ petitioner so far. The writ petitioner further alleges that they were illegally detained by their grandparents. Hence this writ petition.

3. Pursuant to the notice taken by the learned Additional Public Prosecutor on 17.5.2017 and also the notice issued to the respondents on 24.5.2017 by this Court, the Inspector of Police, MKB Nagar All Women Police Station, Chennai, caused production of the two minor children of the writ petitioner in the Court on 08.6.2017. We have interacted with both the children. The children appear to be very cheerful, relaxed and fairly very intelligent. Both of them have answered the various questions put to them by us, very effectively. Varsha, elder of the two, has informed us that she is good at studies and also extra curricular activities. She is standing first in the class. The son Santhosh has also informed us that he also stands first in the class and that he also plays game of Chess well.

4. We are convinced that the two children are not detained forcefully by the grandparents. On the other hand, they appear to be bringing them up really well out of their genuine concern and love, since the two children are born to their pre-deceased daughter. We are, therefore, of the opinion that it will be harsh to agree with the contention of the learned counsel for the petitioner that the two minor children of the writ petitioner are illegally detained or confined by the grandparents. If the petitioner has any other subsisting right, he has to work his way for enforcing such a right by taking recourse to the ordinary course of law. But, he cannot take recourse to extraordinary jurisdiction under Article 226 of The Constitution of India by seeking a Writ of Habeas Corpus. We, therefore, do not hesitate to dismiss the writ petition preserving liberty to the petitioner to work out his remedies available to him under law by approaching appropriate forum. However, token cost of Rs.500/- (Rupees five hundred only) is imposed on the writ petitioner to be paid to the State Legal Services Authority within next 30 days.

5. The writ petition accordingly stands dismissed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

RS

To

1. The Inspector of Police, W-18,
All Women Police Station,
MKB Nagar,
Vyasarpadi, Chennai-39.

2.The Public Prosecutor, High Court, Madras.

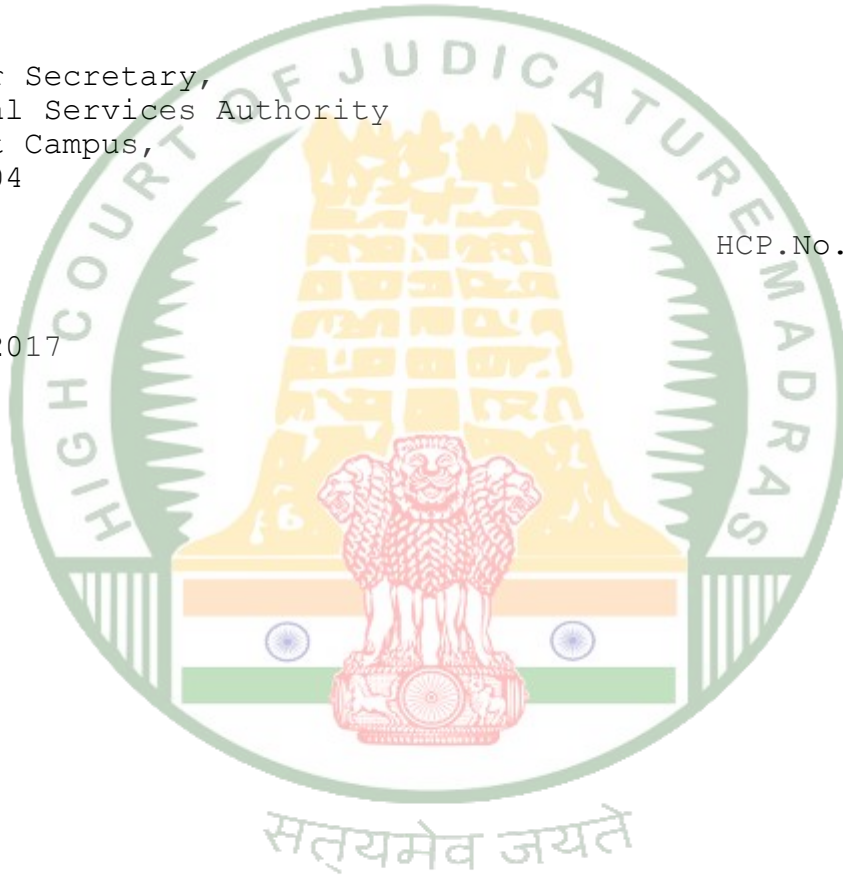
+2cc to M/s.D.Chandrakumar, Advocate in sr.no.43836

Copy to:

The Member Secretary,
State Legal Services Authority
High Court Campus,
chennai-104

HCP.No.790 of 2017

NRI (CO)
NR 30/06/2017



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