

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2017

CORAM:

THE HON'BLE MR. JUSTICE NOOTY. RAMAMOHANA RAO
and
THE HON'BLE MR. JUSTICE S.M. SUBRAMANIAM

H.C.P. No.968 of 2017

R. Maniammal

... Petitioner

vs.

1 The Inspector of Police
Pollachi Police Station
Coimbatore District

2 D. Subhashini

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of habeas corpus directing the first respondent to produce the body of Minor T.S. Kanusuya, aged about 8 years, grand daughter of the petitioner, before this Court and direct to be handed over to the petitioner.

For petitioner Mr. P.Saravanan

For R1 Mr. P. Govindarajan
Additional Public Prosecutor

ORDER

This writ petition is instituted by a 61 year old grand mother seeking the relief of habeas corpus for production of her 8 year old grand daughter by name T.S. Kanusuya, who, it is alleged, has been illegally detained by the second respondent herein.

2 We sympathise with the cause of the writ petitioner. Very unfortunately, the writ petitioner lost her 31 year old son quite prematurely. It is alleged by the petitioner that a daughter born to her son on 14th June 2009, was raised by her until the age of four and subsequently, the second respondent herein, who is none other than the wife of her deceased son, has taken custody of her grand daughter. It is also averred in paragraph no. 3(c) of the affidavit filed in support of this

writ petition that upto January 2017, the second respondent was bringing the grand daughter of the writ petitioner on every second Saturday. It is the case of the writ petitioner that the second respondent, who is her daughter-in-law, has not disclosed where her 8 year old grand daughter is staying. Since the visits of the writ petitioner's grand daughter on every second Saturday have stopped, the present writ petition came to be instituted.

3 It is true that the writ petitioner might have developed lot of emotional attachment with the said grand daughter of her and we can understand the same, all the more so, because, she lost her son at a very young age. These emotional attachments arise from and out of her natural feelings of love and affection towards her grand daughter in general and particularly, in the absence of the father of the grand child. However, it will be harsh on our part to assume that the second respondent, who is admittedly, the natural mother of Kanusuya, should be viewed as detaining illegally, her own daughter in her custody. We only hope and wish that the second respondent, at least, after receiving a copy of this order, would maintain cordial relationship with the writ petitioner, at least to the limited extent of either allowing the writ petitioner to visit her home, so that the writ petitioner can interact with her grand daughter or alternatively, take her daughter, as per her convenience, to the place where the writ petitioner lives/stays, so that the writ petitioner can spend at least a couple of hours of quality time with her grand daughter. Otherwise, it is open to the writ petitioner to approach the appropriate Court for securing her rights, including visitation rights. We are of the opinion that a writ of habeas corpus is not the most appropriate proceeding in that regard.

With the above observations, this writ petition stands disposed of.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

To

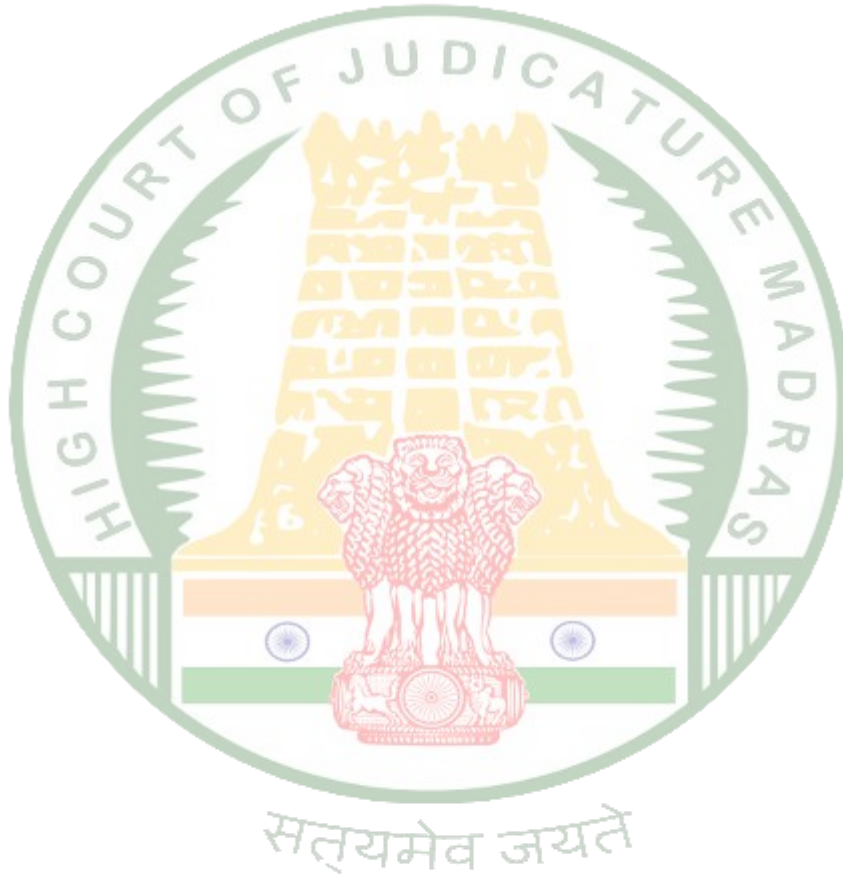
- 1 The Inspector of Police
Pollachi Police Station
Coimbatore District

2 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.P.Saravanan, Advocate Sr. 42019

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