

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Writ Petition No.17156 of 2017

DATED:12-07-2017

Between:

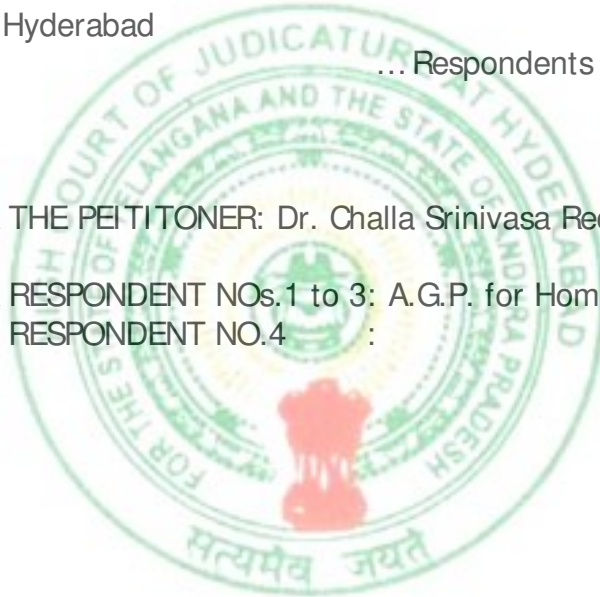
Korra Vanitha
and others ... Petitioners

And

The State of Telangana
Rep. by its Principal Secretary
Home Department
Secretariat, at Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Dr. Challa Srinivasa Reddy

COUNSEL FOR RESPONDENT NOS.1 to 3: A.G.P. for Home (TS)
COUNSEL FOR RESPONDENT NO.4 :



THE COURT MADE THE FOLLOWING:

ORDER: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed for issue of habeas corpus to declare the action of respondent Nos.3 and 4 in keeping the baby by name, Thanvitha @ Apple, ("the alleged detainee") aged six months, in respondent No.4's Home, as illegal and arbitrary. A consequential direction was sought by the petitioners to direct respondent Nos.3 and 4 to produce the alleged detainee before this Court and set her at liberty by handing over her custody to the petitioners.

It is the pleaded case of the petitioners that petitioner Nos.1 and 2, who are natural parents of the alleged detainee, have given the latter in adoption to petitioner Nos.3 and 4 as they are not blessed with children. They have further averred that on 01.3.2017 respondent No.3 registered Crime No.104 of 2017 under Sections 80 and 81 of the Juvenile Justice (Care & Protection of Children) Act, 2015 (for short, "the Act") against them, alleging that petitioner Nos.1 and 2 have sold the alleged detainee to petitioner Nos.3 and 4, that respondent No.3 has arrested the petitioners after handing over the alleged detainee to respondent No.4, that the petitioners were produced before the jurisdictional Magistrate who has sent them to judicial remand, and that after coming out on bail they have filed this writ petition for the aforementioned relief.

Respondent No.3 filed a counter affidavit wherein it is *inter alia* alleged that through one Shantha, mediator, petitioner Nos.1 and 2 have sold the alleged detainee to petitioner Nos.3 and 4 for Rs.35,000/- and that they have paid Rs.10,000/- to petitioners Nos.1 and 2 while promising that they will clear the hospital bill payable by petitioner Nos.1 and 2. That on receiving the said information, Crime No.104 of 2017 under Sections 80 and 81 of the Act, was registered, all the petitioners

were arrested, and that the alleged detainee was handed over to respondent No.4. The counter affidavit termed the alleged adoption deed as a concocted document prepared to suit the needs of the petitioners and that presently the alleged detainee is under the care and custody of respondent No.4

At the hearing, all the petitioners are present before this Court and they informed that as petitioner Nos.3 and 4 do not have children and petitioner Nos.1 and 2 have three girl children, on the former's request the baby girl was given in adoption by the latter. The learned Assistant Government Pleader for Home (TS), however, made his submissions based on the averments in the counter affidavit as referred to above.

The issue whether the alleged adoption of the alleged detainee in favour of petitioner Nos.3 and 4 by petitioner Nos.1 and 2 is illegal or not needs to be adjudicated only in the criminal case registered against the petitioners. Since the alleged detainee is less than one year old, we feel that in her own interest her custody needs to be handed over to her natural parents, pending disposal of the criminal case.

We accordingly direct respondent No.3 to take the custody of the alleged detainee from respondent No.4 and handover the same to petitioner Nos.1 and 2 within the next forty-eight hours. Handing over such custody to petitioner Nos.1 and 2 shall be subject to the result of Crime No.104 of 2017 registered against the petitioners.

Subject to the above directions, the writ petition is disposed of.

C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

12-7-2017
bnr

