

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

AND

THE HON'BLE MRS. JUSTICE S.RAMATHILAGAM

H.C.P.No.1123 of 2018

Karthik

... Petitioner

versus

1. The Sub-Inspector of Police,
Kanchi Taluk Police Station,
Kanchipuram,
Kanchipuram District.

2. E.Vinayaga Moorthy

3. E.Gangadaran

4. E.Pushpa

... Respondents

Hebeas Corpus Petition filed under Article 226 of Constitution of India praying for the issuance of Writ of Habeas Corpus, to direct the respondents to produce the body of petitioner's two minor daughters, namely, K.Shalini, aged about 9 years and K.Sandiya, aged about 7 years, residing at No.413, Vivekananda Nagar, Military Road, Orikkai, Kanchipuram, Kanchipuram District before this Court and hand over the two minor daughters to the petitioner.

For Petitioner : Mr.K.G.Senthil Kumar

For R1 : Mr.R.Prathap Kumar,
Additional Public Prosecutor

ORDER

Dr.S.Vimala, J.,

This petition has been filed by the petitioner, seeking a direction to the respondents to produce his two minor daughters, namely, K.Shalini, aged about 9 years and K.Sandiya, aged about 7 years, residing at No.413, Vivekananda Nagar, Military Road, Orikkai, Kanchipuram, Kanchipuram District, before this Court.

2. It is submitted by the learned counsel for the petitioner that the petitioner/father was in the custody of these detenues and the 4th respondent had filed a Guardian Original Petition before the District Court No.II, Kanchipuram, against the petitioner herein, to declare the 4th respondent herein as guardian and to hand over the custody of two minor children and that was numbered as G.W.O.P.No.19 of 2018.

2.1. It is alleged that on 22.04.2018, the second respondent came to the house of the petitioner and took away two minor children and thereafter these two minor were not returned to the petitioner. Under such circumstances, this Hebeas Corpus Petition has been filed.

3. No doubt, the original custody had been with the petitioner as revealed in the petition filed by the 4th respondent in G.W.O.P.No.19 of 2018.

4. The learned counsel appearing for the petitioner would claim that it is a right of the natural guardian as a father to have the custody of children and therefore, immediately custody must be given to the petitioner herein.

5. We have enquired the children, who are present before this Court. Two children would say that they prefer to reside with the maternal mother. It is needless to point out that apart from the rights of the respective parties, the paramount interest to be considered is welfare of the children. The children are stated to be studying.

6. Under such circumstances, we deem it proper to grant the visiting right to the father with a direction to the District Court No.II, Kanchipuram, for speedy disposal of G.W.O.P.No.19 of 2018.

7. The District Court No.II, Kanchipuram, who is hearing the petition in G.W.O.P.No.19 of 2018, shall dispose of the case within a period of two months from the date of receipt of a copy of this order. Till such time, the custody of two minor children shall remain with the 4th respondent. On each Saturday, the petitioner shall exercise the visiting rights to visit the children at the residence of the 4th respondent.

10. With these observation, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Inspector of Police,
Kanchi Taluk Police Station,
Kanchipuram, Kanchipuram District.
2. The District Judge, No.II,
Kanchipuram, Kanchipuram District.

+1cc to M/s.K.G.Senthilkumar, Advocate Sr.No.39767

+1cc to M/s.S.Thamizharasi, Advocate SR.No.39515

PPA(CO)

sm:10.7.2018

H.C.P.No.1123 of 2018