

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.No.91 of 2018

Tmt.Balamma

... Petitioner

-Vs-

- 1.The Inspector of Police, (Crime),
Palladam Police Station,
Palladam, Tiruppur,
Tiruppur District.
- 2.Sneha Social Service Society,
No.49, Mangalam Road,
Palladam, Tiruppur District-641 664.
- 3.The Chairman,
Child Welfare Committee,
Government Observation Home,
District Collector Office Campus,
Tiruppur, Tiruppur District.
- 4.The Chairman,
Child Welfare Committee,
Government Observation Home,
No.34, East Bouli Ward Road,
Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the children Agalya and Sathya both aged 4 years before this Hon'ble Court and they may be set at liberty.

For Petitioner : Mr.P.G.Santhoshkumar

For Respondents: Mr.V.M.R.Rajentran, APP
For R1
Ms.M.Premalatha, Chairperson,
R3-Party-in-Person
Mr.A.Edwin Prabakar
for R4

ORDER

[Order of the Court was made by C.T.SELVAM, J.]

Petitioner, informing that she is the mother of two women, who were arrested in connection with the case registered in Crime No.819 of 2017 on the file of first respondent for offences u/s 379 IPC and claiming to be the grandmother of two children, who were taken away from the custody of the accused at the time of the arrest, seeks a direction for production of the children and towards there being handed to her custody.

2. We have heard the learned counsel for petitioner, learned Additional Public Prosecutor appearing for first respondent as also Mr.A.Edwin Prabakar, learned counsel for fourth respondent and Chairperson, Child Welfare Committee, Tiruppur.

3. Learned counsel for fourth respondent has informed of fourth respondent acting in keeping with due process of law and that regards one of the children, there is a rival claimant. Learned counsel submits that it would be improper to direct the custody of the children in the hands of the petitioner without ascertaining parental details.

4. Learned counsel for petitioner seeks interim custody of the children pending proceedings in keeping with The Juvenile Justice (Care and Protection of Children) Act, 2015. He submitted that there are no particulars, particularly by way of registration of FIR regards claim of any parental right over one of the children. He further submitted that the fourth respondent is not affording petitioner appropriate opportunity to appear before it.

5. Chapter VI of The Juvenile Justice (Care and Protection of Children) Act, 2015 informs the procedure to be adopted and manner of conduct of enquiry by the Child Welfare Committee.

6. This Court would dispose of the present petition requiring the fourth respondent to act in keeping therewith. It is expected that the fourth respondent would avail the DNA process and satisfy itself on the parentage of the children. The petitioner as also her daughters from whom the children allegedly have been taken, would co-operate in the conduct of such test. Towards early and satisfactory disposal of the matter, we would require The State Forensic Laboratory to act with due despatch and submit DNA reports when called for by the fourth respondent, within a period of one month from the date of receipt of request.

7. With the above observations, this Habeas Corpus Petition shall stand dismissed. The jurisdictional Child Welfare Committee shall decide the issue after proper enquiry. For removal of doubts, it is absolutely open to the Committee to act in keeping with and in exercise of its powers under The Juvenile Justice (Care and Protection of Children) Act, 2015.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

kmi
TO:

1. THE INSPECTOR OF POLICE, (CRIME),
PALLADAM POLICE STATION,
PALLADAM, TIRUPPUR,
TIRUPPUR DISTRICT.
2. SNEHA SOCIAL SERVICE SOCIETY,
NO.49, MANGALAM ROAD,
PALLADAM, TIRUPPUR DISTRICT-641 664.
3. THE CHAIRMAN,
CHILD WELFARE COMMITTEE,
GOVERNMENT OBSERVATION HOME,
DISTRICT COLLECTOR OFFICE CAMPUS,
TIRUPPUR, TIRUPPUR DISTRICT.
4. THE CHAIRMAN,
CHILD WELFARE COMMITTEE,
GOVERNMENT OBSERVATION HOME,
NO.34, EAST BOULI WARD ROAD,
TRICHY.
5. THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.
6. THE STATE FORENSIC LABORATORY INCHARGE,
CHENNAI

+2cc to Mr.A.EDWIN PRABAKAR, Advocate, S.R.No. 7936
+1cc to Mr.P.G.SANTHOSHKUMAR, Advocate, S.R.No. 10680
H.C.P.No.91 of 2018

RSI (CO)
TR(16/02/2018)