

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.22040 of 2018

01.08.2018

Between:

Sara Fatima

..Petitioner

and

The State of Telangana,
represented by its Principal Secretary,
Home Department,
Secretariat, Hyderabad and others

..Respondents

Counsel for the petitioner: Mr.Nageswara Rao Pujari

Counsel for respondent Nos.1 and 2: Assistant Government Pleader
representing Additional Advocate General (T.S.)

Counsel for respondent No.3: --

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* directing respondent No.2 to produce the two minors *viz.*, Mir Ayaan Ali Khan seven years old son and Aalia Rida Khan four years old daughter of the petitioner.

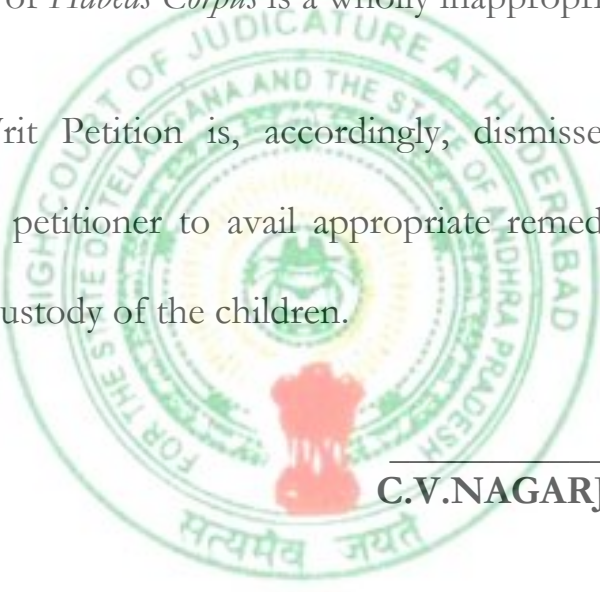
2. Respondent No.2 filed a counter-affidavit, wherein he has, *inter alia*, stated that after the filing of the present writ petition by the petitioner, the Sub-Inspector (S.I.) of Police, Chaderghat Police Station (P.S.), Hyderabad, recorded the former's statement on 06.07.2018, wherein she stated that due to disputes between her and her husband – respondent No.3, the latter has taken away the two minor children and that presently, their whereabouts are not known. It is further averred that on 10.07.2018, a requisition was given to I.C.I.C.I. Bank, Malakpet Branch, Hyderabad, to provide information with regard to usage of the debit card by respondent No.3 to know his whereabouts and that it was revealed that he is making transactions through internet banking; that going through the internet bank transactions, it was found that respondent No.3 booked bus ticket through 'Red bus' app on 02.06.2018; that the Police addressed a letter to the Assistant Commissioner of Police, Cyberabad Crimes, CCS, Hyderabad, with a request to provide IP address of mail ID of respondent No.3; that with the help of IMEI number of the cell phone of respondent No.3, it came to light that respondent No.3 is in Dubai, United Arab Emirates (U.A.E.) and that immediately, the S.I. of Police, Chaderghat

P.S. contacted on the mobile number of respondent No.3 and talked to him, who disclosed that due to family disputes, he came to Dubai along with his children *via* Chennai Airport, that he would take steps to call his wife to Dubai, and that the Police furnished the phone number of respondent No.3 to the petitioner, who talked to him on 21.07.2018. It is also averred that the deponent addressed letter, dated 21.07.2018, to the Secretary (Political), General Administration Department, Government of Telangana, Hyderabad, which deals with NRI matters, bringing to their notice, the above facts and requested to furnish information with regard to departure particulars of respondent No.3 along with his children, by using his passport, to enable the Police to proceed with the investigation. Similar letters were addressed on 23.07.2018, to the Foreigners Regional Registration Officer (FRRO), Hyderabad and on 27.07.2018, to the FRRO, Chennai. The particulars obtained from the FRRO, Chennai revealed that respondent No.3 along his two children went to Dubai from Chennai Airport through 6E-065 flight and that on 30.07.2018, respondent No.3 has sent an e-mail addressed to the deponent, wherein he has stated that due to the family problems, he has taken the extreme step of taking his children to U.A.E. and that he is concerned with the welfare of his children.

3. The facts discussed above would show that due to serious disputes between the petitioner on the one side and respondent No.3 on the other side, the latter has taken away the minor children to

Dubai. The petitioner has not raised a specific plea that respondent No.3 has forcibly taken away the children from her custody. The action of respondent No.3 in taking away the children to Dubai along with him cannot be perceived as either illegal or unlawful or that he has illegally detaining his two minor children. The dispute between the parties primarily pertains to the custody of their minor children. Such a dispute can only be got resolved through the competent Court of law. Hence, we are of the opinion that the present writ petition filed for issue of *Habeas Corpus* is a wholly inappropriate remedy.

4. The Writ Petition is, accordingly, dismissed, however, with liberty to the petitioner to avail appropriate remedies as per law for securing the custody of the children.



C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

01st August, 2018

GHN

