

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.P.No.33757 of 2018

Date: 20.09.2018

Between:

Mamidipalli Naga Venkata Shyam Sundar,
S/o.M.V.A.S.Sharma,
Aged: 45 years,
Occ: Private Service,
R/o.5-44/12/1, Plot No.148,
Rajireddy Nagar,
Bank Colony,
Dammaiguda,
R.R. district.

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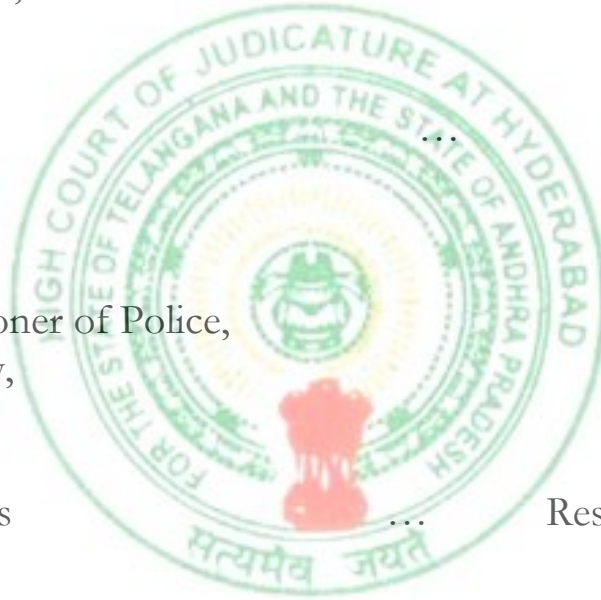
Petitioner

And

The Commissioner of Police,
Hyderabad City,
Basheerbagh,
Hyderabad
and eight others

...

Respondents



Counsel for the Petitioner : Mrs. M.Venkateswari

Counsel for the Respondents : G.P. attached to Additional
A.G. (TS) for R1 to R3

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 respondents No.1 to 3 to produce Baby Mamidipalli Gayathri, daughter of the petitioner (for short 'the alleged detainee') before the court and to set her at liberty by handing over her to the petitioner. The petitioner also sought for award of compensation of Rs.5 lakhs against respondent Nos.4 to 9.

2. We have heard the learned counsel for the petitioner and perused the record.

3. The petitioner married the daughter of respondent No.4 by name Aruna Srikanti in the year 2007. The couple were blessed with a girl child on 10.07.2009. On 05.08.2018, the petitioner's wife died in her maternal house. The petitioner alleged that on 07.09.2018, the alleged detainee was forcibly taken away by respondents No.4,6 and 7 and detained in their illegal custody.

4. During the hearing, the learned counsel for the petitioner submitted that as respondents No.4, 6 and 7 requested the petitioner to allow them to take the alleged detainee with them after the completion of 10th day ceremony of his wife, the petitioner agreed for the same and that, thereafter, they have not been handing over the custody of the child to the petitioner.

5. Admittedly, respondent No.4 is none other than the maternal grand mother of the alleged detainee. The petitioner is seeking

custody of the minor girl, on the ground that he is her father and natural guardian. The mother of the minor child having died, the issue as to who is entitled to the custody of the minor girl child, has to be adjudicated by the jurisdictional court exercising jurisdiction under the extant substantive laws governing the child custody. As noted herein before, respondent No.4 being none other than the maternal grand mother of the minor child, the plea of the petitioner that the minor girl is in the illegal custody of the former, cannot be accepted.

6. In these facts and circumstances of the case, we are of the opinion that this writ petition filed for issue of habeas corpus, is not an appropriate remedy. Accordingly, while dismissing the writ petition, the petitioner is permitted to avail the remedies available to him for claiming the child custody before the court of competent jurisdiction.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad,J)

Date: 20th September, 2018

msb

