



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.05.2019

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CORAM:
THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**
W.P. (MD) No.12501 of 2019
and
W.M.P. (MD) No.9317 of 2019

Meenakshi

... Petitioner

Vs

1. The District Collector,
Thanjavur, Thanjavur District.
2. The Superintendent of Police,
Thanjavur, Thanjavur District.
3. The Inspector of Police,
All Woman Police Station,
Thanjavur, Thanjavur District.
4. The Chairman,
Child Welfare Committee,
S.M.Salai, Thanjavur,
Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating the impugned order in No.14/ku.Na.Ku/2019, dated 14.05.2019 on the file of the 4th respondent and quash the same.

For Petitioner : Mr.S.Muthumalairaja

For Respondents : Mr.M.Rajarajan
Government Advocate

ORDER

The petitioner had taken one Dhivyadharshini in adoption on 13.04.2014. According to the petitioner, the child was born to one Elumalai and Kavitha. The said Elumalai and Kavitha had been eking out their livelihood as Cooli in brick kiln. Since they were not in a position to maintain the child, they had given the child in adoption to the petitioner on 13.04.2014. An adoption deed was also executed. Of course, it has not been registered. The child has been with the petitioner ever since. The child is now studying U.K.G., in Best Matriculation Higher Secondary School in Thanjavur. While so, the fourth respondent issued the impugned communication calling upon the petitioner to surrender the child



before the Child Welfare Committee. The said communication is questioned in this writ petition.

2. Heard the learned counsel on either side.

3. The petitioner along with the child is present in person before this Court. It is true that the petitioner is unable to produce the biological parents of the child in question. But then, the materials enclosed in the typed set of papers indicates that the biological parents of the child as well as the petitioner belonging to Hindu religion. Therefore, the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015, will not apply in such a case. Section 56 (3) of the Juvenile Justice (Care and Protection of Children) Act, 2015, states that 'nothing in this Act shall apply to the adoption of children made under the provisions of the Hindu Adoption and Maintenance Act, 1956. Therefore, the petitioner's counsel would contend that the fourth respondent lacks jurisdiction to proceed under the aforesaid Act. I find the said contention to be sound and acceptable. More than anything else, the interests of the child are paramount. The child is presently under the care and custody of the petitioner. The child has been with the petitioner for the last several years. This Court could notice that there is a bonding between the petitioner and the child in question. If the child is separated from the petitioner and admitted to a Government Home, the future of the child is sure to be doomed.

4. In this view of the matter, the order impugned in the writ petition is quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

ias/gk

To:

1. The District Collector,
Thanjavur, Thanjavur District.
2. The Superintendent of Police,
Thanjavur, Thanjavur District.
3. The Inspector of Police,
All Woman Police Station,
Thanjavur, Thanjavur District.



4. The Chairman,
Child Welfare Committee,
S.M.Salai, Thanjavur,
Thanjavur District.

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+1cc to M/S.S.MUTHUMALAI RAJA, Advocate, Sr.No. 66339
+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No.66476

W.P. (MD) No.12501 of 2019
29.05.2019

BUC (24/06/2019) 3P/7C