

**HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD**

WRIT PETITION NO.6636 OF 2019

ORDER: (per Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)

Ms. T. Preethi, the petitioner, has filed this *habeas corpus* petition on the ground that her two children, namely, T. S. Parthiv Kumar, age eight years, and T. S. Moksha, age five years, are being detained illegally by her husband, Mr. T. Santosh Kumar, respondent No.5.

2. By order dated 29.03.2019, this court had directed the respondent No.5 to produce both the children before this Court. Consequently, both the children have been produced before this court.

3. This court has spoken to the petitioner, the respondent No.5 and both the children in the chambers. *Prima facie*, we found that there is no possibility of reconciliation between the young couple, the petitioner and the respondent No.5. The discussions held with the two children reveal the fact that both the children are adamant that they do not wish to reunite with the mother. Since the children are in the custody of the father, it cannot be said that custody is an illegal one.

4. Therefore, this court is of the opinion that the *habeas corpus* petition is not maintainable. However, it is, hereby, clarified that since this is an issue of child custody between the mother and the father, the petitioner shall be free to take recourse to the legal

remedies which are available to her. Therefore, any observations made by this court, as aforementioned, should not influence the decision of the Family Court, in case a petition for the custody of the children is filed.

5. Accordingly, the writ petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

RAGHVENDRA SINGH CHAUHAN, ACJ

T.AMARNATH GOUD, J

Date: 04.04.2019
TJMR

