

High Court for the State of Telangana

**THE HON'BLE THE CHIEF JUSTICE
SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER**

W.P.No.16890 of 2019

Date: 09.08.2019

Between:

Syeda Sanjeera Kousar

...appellant

and

The State of Telangana,
Rep. by its Principal Secretary,
Department of Home, Secretariat,
Hyderabad (Through SHO, PS) and
6 others

...Respondents

Counsel for the petitioner: Mrs.S.Nanda

Counsel for the respondents: Mr. S.Santosh Kumar,
Government Pleader attached to the
office of Addl.Advocate General

The Court made the following:

ORDER: (Per the Hon'ble the Chief Justice Sri Justice Raghvendra Singh Chauhan)

The writ petitioner, Syeda Sanjeera Kousar, has filed the present Habeas Corpus writ petition ostensibly on the ground that her 19 month old son namely Md.Mufeezuddin has been illegally detained by respondent No.5, her husband, and by the grandparents of the child.

2. The learned counsel for the petitioner pleads that since the petitioner happens to be the mother of a 19 month old child, under the law, she is the legal and natural guardian of the child. Till the custody of the child is not been given by her husband and by her in laws, her custody is an illegal one. Therefore, it is a case of illegal detention of the child by the respondent Nos.5 to 7.

3. On the other hand, Mr.Santosh Kumar, the learned counsel for the State, submits that even according to the petitioner, the respondent Nos.5 to 7 have filed an application before the Principal District Court, Warangal, namely, G.O.P.No593 of 2018. Therefore, the question of child custody is *sub judice* before the said Court. Hence, according to the learned counsel, the Habeas Corpus jurisdiction cannot be used to scuttle the normal judicial process. Moreover, the present writ petition tantamounts to forum shopping. Furthermore, there is likelihood of this Court passing an order which may be contrary to the final order passed by the Principal District Court at Warangal. Hence, the learned counsel has pleaded that the present Habeas Corpus petition tantamounts to abuse of process of law.

4. In rejoinder, the learned counsel for the petitioner submits that although a child custody case is pending before the Principal District Court, Warangal, the Presiding Officer is not passing the final order. Therefore, the petitioner is being deprived of the right to have custody of the child.

5. Heard the learned counsel for the parties and perused the record.

6. Admittedly, the petitioner and respondent Nos.5 to 7 are contesting the child custody before the Principal District Court at Warangal in G.O.P.No.593 of 2018. Even if the petitioner is of the view that there is a delay in final decision of the said case, the Habeas Corpus jurisdiction cannot be invoked. Therefore, the petitioner cannot be permitted to do forum shopping. In case, the writ petition were entertained and allowed, it would motivate others to scuttle the judicial process and rush to this Court in cases of child custody under the garb of Habeas Corpus petition. Therefore, this Court is of the view that this Habeas Corpus writ petition is devoid of any merit; it is hereby dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(DR. SHAMEEM AKTHER, J)

09th August, 2019

Lrkm/pln