

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

H.C.P. No. 1554 of 2020

Kalaivanan

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. by The Superintendent of Police,
Coimbatore District,
Office of the Superintendent of Police,
State Bank Road,
Coimbatore.

2.The Inspector of Police - Law & Order,
D-3, Pothanur Police Station,
Pothanur, Coimbatore.

3.S.Shanmugasundaram

... Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus directing the 2nd respondent police to cause production of the body and person of minor children 1.Ms.Iniya Hasini, aged about 11 years, and 2.Master. Priyan Balaji, aged about 9 years, before this Court from the custody of the 3rd respondent to hand over to the petitioner.

For Petitioner : Mr.V.S.Senthilkumar

For Respondents

Mr.R.Prathap Kumar,
: Addl. Public Prosecutor
for R1 and R2

: Mr.S.Gunalan for R3

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

Seeking a direction to the second respondent police to produce the body of minor children 1.Ms.Iniya Hasini, aged about 11 years, and 2.Master. Priyan Balaji, aged about 9 years, before this Court from the custody of the third respondent and to hand over them to the petitioner, the present habeas corpus petition has been filed.

2. It is the case of the petitioner that he got married to Suganthi and they were blessed with two children Iniya Hasini (D.O.B. 11.12.2008) and Priyan Balaji (D.O.B - 20.12.2011); that his wife committed suicide on 12.05.2018 in her parental home and thereafter the two children are being illegally detained by his father-in-law, the third respondent herein.

3. However, the learned counsel for the respondents refuted the aforesaid contentions.

4. On a conspectus of the facts obtaining in this case, it is seen that the petitioner got married to Suganthi and they were blessed with two children as stated above. However, the couple got estranged resulting in Suganthi taking the two children with her to her parental home in Coimbatore.

5. Suganthi initiated the proceedings in D.V.A.No. 9 of 2017 before the Judicial Magistrate VII, Coimbatore under D.V. Act, claiming various reliefs against the petitioner. The petitioner filed a petition for guardianship of the children in the District Court, Ooty which was transferred to the Additional Family Court, Coimbatore, and the same has been re-numbered as G.W.O.P.No. 458 of 2018.

6. During the pendency of these litigations, Suganthi committed suicide on 12.05.2018. Thereafter, the third respondent, who is the grand father of the children and the father-in-law of the petitioner, has filed G.W.O.P.No. 1452 of 2018 in the Family Court, Coimbatore for guardianship of the two children and the petitioner has filed G.W.O.P.No. 1594 of 2018 before the Family Court, Coimbatore, for the same relief.

7. In view of the pendency of the aforesaid litigations, it will not be appropriate for this Court to exercise jurisdiction under Article 226 of the Constitution of India, to hand over the custody of the children to the petitioner. However, this Court by order dated 24.09.2020 has permitted limited access to the children.

8. In view of the above, we grant the aforesaid rights to the petitioner and his parents to visit the children in the house of the third respondent on every alternative Saturday till appropriate orders either interim or final that is passed by the Family Court, Coimbatore in the pending guardianship petitions, filed by the petitioner and the third respondent.

9. With the above said observations, the habeas corpus petition stands closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssm

To

- 1.The Superintendent of Police,
Coimbatore District,
Office of the Superintendent of Police,
State Bank Road,
Coimbatore.
- 2.The Inspector of Police - Law & Order,
D-3, Pothanur Police Station,
Pothanur, Coimbatore.
- 3.The Judge,
Family Court, Coimbatore
- 4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Gunalan, Advocate Sr.4132

ssi[co]
srg 25/02/2021

H.C.P. No. 1554 of 2020