



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.N.MANJULA

H.C.P.NO.642 OF 2021

Anjum Fathima
W/o.Nasar

... Petitioner

.Vs.

1. The Superintendent of Police,
Office of Superintendent of Police,
Vellore District.

2. State represented by
The Inspector of Police,
Sathuvachari Police Station,
Vellore District.

3. Mohammed Hussain
S/o.Ali Askar

... Respondents

PRAYER:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the second respondent to produce the petitioner's minor son Mohammed Asghar S/o.Mohammed Hussain, aged about 4 years, before this Court, from the illegally custody of third respondent and hand over to the petitioner.

For Petitioner : Mr.B.Balamurugan

For Respondents : Mr.R.Muniyapparaj
Government Advocate [Crl.side]
[R1 & R2]

O R D E R

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

This petition has been filed seeking a direction to the second respondent to produce the petitioner's minor son Mohammed Asghar S/o.Mohammed Hussain, aged about 4 years, before this Court, from the illegally custody of third respondent and hand over to the petitioner.



2. It is the case of petitioner that she got married to the third respondent on 28.02.2013 and through the wedlock, they were blessed with two children viz., (1) Umar @ Mohammed Hadi and (2) Mohammed Asghar. Unfortunately, the child Umar @ Mohammed Hadi died on 16.09.2015. Thereafter, on marital discord, the spouses got estranged. The third respondent has filed G.W.O.P.No.47 of 2019 on the file of District Court, Vellore, in which the matter was referred to Lok Adalat for settlement. It is seen that in the Lok Adalat, Vellore District Legal Services Authority, LAC No.122 of 2020, a settlement was arrived at on 08.02.2020, under which the custody of Mohammed Asghar was given to the third respondent and the petitioner was given visitation rights. Now, it is the grievance of the petitioner that the whereabouts of third respondent is not known to her and therefore, she is unable to visit her son. Hence, the petitioner has filed the present petition.

3. On notice, the third respondent entered appearance through Mr.R.Raghavendran (Enrol.No.2941/12), Mobile No.99403 83882. He also appeared via video conferencing with the child.

4. When enquired by us, the third respondent stated that he has changed his residence from Door No.47/C, Gandhi Street, Thorapadi, Vellore, to 29/7, Ragila Nagar, Periyaallahpuram, Thorapadi, Vellore - 632 002 and that his mobile number is 90877 86110. He further stated that he never denied visitation rights to the petitioner and it is the petitioner, who is not visiting the child.

5. In such view of the matter, we are of the opinion that the child is not in illegal custody of third respondent warranting issue of Writ of Habeas Corpus.

Accordingly, the Habeas Corpus Petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Superintendent of Police,
Office of Superintendent of Police,
Vellore District.



2. The Inspector of Police,
Sathuvachari Police Station,
Vellore District.

3. The Public Prosecutor,
High Court,
Madras.

+2ccs to Mr.B.Balamurugan, Advocate, S.R.No.38367

H.C.P.NO.642 OF 2021

RSI (CO)
PBS/25/08/2021