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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	22.12.2020
Delivered on	01.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.17908 of 2020

and

W.M.P. (MD) .No.14935 of 2020

R.Akbar Ali

... Petitioner

vs .

- 1)The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 2)The Inspector of Police,
C2, Melapalayam Police Station,
Tirunelveli.
- 3)The Sub Inspector of Police,
C2, Melapalayam Police Station,
Tirunelveli.
- 4)Sheik Abdul Khadar
The Sub Inspector of Police,
C2, Melapalayam Police Station,
Tirunelveli.
- 5)A.M.G.Abdul Lathif
- 6)Mrs.Mahalakshmi

... Respondents

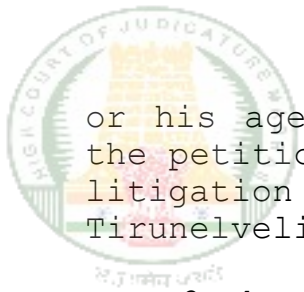
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 1st respondent to forbear the respondents 3 and 4 or their subordinates from in any way harassing the petitioner or his aged parents interfering into the civil dispute between the petitioner and the 5th respondent subject matter of litigation in GWOP.No.97 of 2019 on the file of the Family Court, Tirunelveli.

For Petitioner : Mr.M.Mahaboob Athiff for
M/s.Ajmal Associates
For R1 to R3 : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

The prayer in the writ petition is for issuance of a Writ of Mandamus, to direct the 1st respondent to forbear the respondents 3 and 4 or their subordinates from in any way harassing the petitioner

<https://hcservices4courts.gov.in/eservices/>

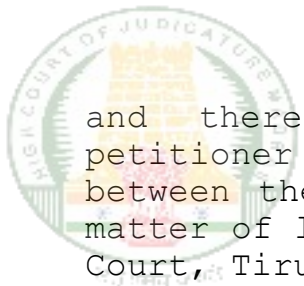


or his aged parents by interfering into the civil dispute between the petitioner and the 5th respondent which is the subject matter of litigation in GWOP.No.97 of 2019 on the file of the Family Court, Tirunelveli.

2.The petitioner is a resident of Tirunelveli and a small vendor. He married to one Rahmath Nisha, daughter of the 5th respondent on 08.07.2007 and out of the said wedlock, they were blessed with a daughter namely, Asfia Reshma on 08.06.2008. Later on, there was difference of opinion between the petitioner and his wife and therefore, divorce petition was filed and the marriage between the petitioner and his wife was dissolved by divorce on 15.02.2015 and the said divorce was based on a compromise between the parties, by which, the petitioner paid a lumpsum maintenance of Rs.3,00,000/- which was duly accepted as full quit and as per the understanding between the petitioner and his estranged wife, his daughter was put in joint custody and was living in both their houses in turns. This being so, the petitioner's estranged wife passed away on 07.01.2019 due to ill-health. Till the death of the petitioner's wife, it appears that there had been no dispute. Thereafter, the petitioner's daughter intended to settle down with her father/petitioner, but the 5th respondent/grandfather of the minor child resisted the movement of the minor child and did not allow her to visit the petitioner's house and therefore, the petitioner filed an application in GWOP.No.97 of 2019 under Section 25 of the Guardians and Wards Act, 1890, before the Family Court, Tirunelveli, seeking custody of the minor child which is pending and the 5th respondent has been arrayed a 1st respondent in the said GWOP. This being the situation, the petitioner's daughter voluntarily escaped from the 5th respondent and had come to the petitioner's house on 26.11.2020. Immediately thereafter, the 4th respondent who is the relative of the 5th respondent, started harassing the petitioner and his aged parents. According to the petitioner, the 6th respondent/police acting at the instance of the 5th respondent, forced the petitioner and his family to part with the custody of his daughter and also threatened that he would foist false cases against the petitioner and his family members. Hence, this writ petition.

3.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents 1 to 3. In view of the order going to be passed, notice to the respondents 4 to 6 is not necessary.

4.Admittedly, the petitioner is the father of the minor child who had left the house of the 5th respondent and is staying with the petitioner/father. The minor daughter is now aged more than 15 years and she would state that she wants to live with her father/petitioner and therefore, this Court has no other option except to send the child with the petitioner/father. Admittedly, the minor child is with her father/petitioner on her own volition



and therefore, the respondents/police shall not harass the petitioner or his aged parents by interfering into the dispute between the petitioner and the 5th respondent which is the subject matter of litigation in GWOP.No.97 of 2019 on the file of the Family Court, Tirunelveli.

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5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

- 1) The Family Court,
Tirunelveli.
- 2) The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 3) The Inspector of Police,
C2, Melapalayam Police Station,
Tirunelveli.
- 4) The Sub Inspector of Police,
C2, Melapalayam Police Station,
Tirunelveli.
- 5) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order made in
W.P(MD)No.17908 of 2020
DATED : 01.09.2021

RS (20.09.2021) 3P 6C