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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

and

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P. (MD)No.1650 of 2021

A.Muthumari ... Petitioner/Mother of the detenu
vs.

1.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City.

2.The Inspector of Police,
Sellur Police Station,
Madurai.

3.The Child Welfare Commissioner,
O/o.The District Collector,
Madurai District,
Madurai.

4.S.Vigneswaran

5.V.Abirami

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the body or person of the petitioner's adopted minor son / detenu namely Navaranjan, S/o. S.Arul Kumaran (aged 3 years) before this Court and handover the custody of the detenu to her based on her complaint dated 26.10.2021 made to the respondents 1 and 2 through registered post.

For Petitioner

:Mr.S.P.Naveen Kumar

For R1 to R3

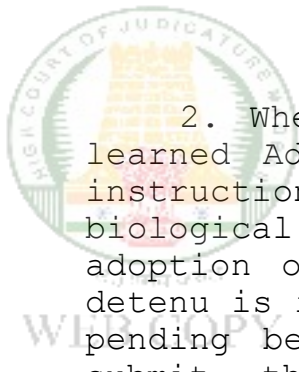
:Mr.S.Ravi

Additional Public Prosecutor

O R D E R

(Order of the Court was made by R.PONGIAPPAN, J.)

Alleging that the petitioner's adopted son by name Navaranjan, aged about 3 years, was forcibly taken by the respondents 4 and 5, the petitioner has given a complaint to the respondents 1 and 2. But, so far no action has been taken by the respondents police to secure the detenu. Hence, the present Habeas Corpus Petition has been filed.



2. When the matter is taken up for hearing today, Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State, on instructions would submit that the respondents 4 and 5 are the biological parents of the detenu. Earlier, they said to have given adoption of the detenu/minor child, to the petitioner. Now, the detenu is in custody of the respondents 4 and 5. There is a dispute pending between the parties regarding adoption. He would further submit that the detenu is not illegally detained by the respondents 4 and 5.

3.Considering the above circumstances that the detenu is in the custody of his biological parents, it cannot be treated as illegal custody. If at all the petitioner is having any right by virtue of adoption, she has to approach the appropriate civil Court to prove the same and take custody of the minor child and she cannot maintain a Habeas Corpus Petition.

4.With the above observations, the Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City.

2.The Inspector of Police,
Sellur Police Station, Madurai.

3.The Child Welfare Commissioner,
O/o.The District Collector,
Madurai District,
Madurai.

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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER MADE IN
H.C.P. (MD)No.1650 of 2021
02.11.2021

MA (CO)
GC/PM(25.11.2021) 3P 5C