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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3268 OF 2022

Biranchi Tandi and Ors.	.. Petitioners
Vs.	
State of Maharashtra and Ors.	.. Respondents

Ms. Devyani Kulkarni, for the Petitioners.
Mrs. A.S. Pai, PP for the Respondent – State.
Dr. Santosh Khambalkar, CWC, Member Thane present.
Mr. Ganesh Jadhav, NRI Sagri Police Station, Navi Mumbai present.

**CORAM : A.S. GADKARI &
MILIND N. JADHAV, JJ.**

DATE : 06th October 2022.

P.C.:

. Heard Ms. Kulkarni, learned Advocate for Petitioner No.1
and Mrs. Pai, learned PP for the Respondent – State.

2. The present Writ Petition is now restricted only with respect
to the three children namely Krishna Tandi, Manisha Tandi and Aksha
Tandi. Admittedly, Petitioner No.1 is their biological mother.

3. On 26.09.2022, the following Order was passed:-

*“ Mr.Desai, learned Senior Counsel for Petitioners
submitted that, as per the latest instructions received by him
from the Advocate on record, the Petitioner No.1 is stationed at
Navi Mumbai for last more than five years and is doing
household works. He seeks time to take further instructions in
the matter.*

At his request, stand over to 30th September, 2022.”

4. Petitioner No.1 has filed additional affidavit of Petitioner
No.1 dated 30.09.2022. She has stated that, she had come to Navi

Mumbai along with her husband in the year 2011 in search of employment and to provide a better life for their children. That, on 23.05.2015 her husband met with a serious accident after a fall from the third floor of the building where he was working and since then he was bedridden. That, since the entire responsibility came upon her, they decided to enroll their children namely Krishna and Manisha at the three Children's Home on 20.07.2019 and Aksha on 20.07.2022. That, even there after she would meet them frequently and bring them home on the weekend. That, her children were studying in the school at Navi Mumbai. That, from 04.05.2017 to 04.04.2018 she was residing at Morave Gaon, Navi Mumbai. That, from 08.01.2018 to 08.12.2018 she was residing at Sharayu CHS, 302, Plot No.87, Sector - 2, Ulwe, Navi Mumbai. That, from 01.01.2019 to 31.10.2020 she was residing at Flat No.101, Tanish Apartment, Plot No.110, Sector - 2, Ulwe, Navi Mumbai. Thereafter, due to the lockdown she returned back to Odisha and after the lockdown was lifted she returned back to Navi Mumbai and at present is residing at Karave, House No.797, Room No.6, Sector - 36, Navi Mumbai. She has prayed for handing over custody of her three children from the custody of CWC Ulhasnagar to her at Navi Mumbai. The documents which are enclosed to the additional affidavit bear out the fact that, Petitioner No.1 was/is residing at Navi Mumbai and her children are also enrolled in a school at Navi Mumbai.

5. Ms. Kulkarni would submit that, pursuant to the last order, Petitioner No.1 was summoned for recording her statement at the NRI Police Station, Navi Mumbai and kept waiting for more than four hours. She would also submit that, the police authorities have pressurized the present landlord of Petitioner No.1 and asked him to inform Petitioner No.1 to vacate the premises occupied by her on leave and license basis.

6. Mrs. Pai, after taking instructions from the Member, CWC Ulhasnagar and the police officer present in the Court submitted that, Respondents do not dispute that Petitioner No.1 is the biological mother of the three children. She submitted that, CWC Odisha has submitted a report to the effect that they are willing to take custody of the three children and thereafter hand them over to Petitioner No.1 at Odisha. However, assuming for the sake of argument that, Mrs. Pai would be correct, the ultimate custody of the children would have to be given to Petitioner No.1.

7. In view of the aforementioned observations and reasons, we deem it fit in the interest of justice to direct CWC Ulhasnagar to give custody of the three children namely Krishna Tandi, Manisha Tandi and Aksha Tandi to Petitioner No.1 between 03:00 p.m. to 05:00 p.m. tomorrow i.e. 07.10.2022 and after completing the necessary formalities.

8. With the above observations and directions, Writ Petition stands partly allowed.

[MILIND N. JADHAV, J.]

[A.S. GADKARI, J.]

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TRAMBAK
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Date: 2022.10.19
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