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H.C.P.No.2151 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13..12..2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **N.ANAND VENKATESH**

Habeas Corpus Petition No.2151 of 2022

Bharathi

..... Petitioner

-Versus-

1.The Superintendent of Police,
Pondicherry.

2.The Inspector of Police,
Urulayanpettai Police Station,
Pondicherry.

3.Selvamuthu

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the 2nd respondent to produce the petitioner's minor child Simon and Tyson, who are now in the custody of the 3rd respondent, before this court and handover the custody of the minor children to the petitioner.



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For Petitioner : Mr.D.S.Ramesh

*For Respondents : Mr.V.Balamurugane,
Public Prosecutor (Puducherry)
for RR1 & 2
Mr.I.Abrar Md. Abdullah for R3*

ORDER

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

This Habeas Corpus Petition has been filed seeking a direction to the the 2nd respondent to produce the petitioner's minor children viz., (i) Simon and (ii) Tyson, who are now in the custody of the 3rd respondent, before this court and handover the custody of the minor children to the petitioner.

2. When the matter was taken up today for hearing, Mr.P.V.Jagatish, Legal cum Probation Officer, Puducherry was present.

3. On 06.12.2022, we passed the following order:-

“Today, when the matter was taken up for hearing, Selvamuthu [third respondent herein] has filed an interim reply affidavit dated 06.12.2022. He was also present before this Court.



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2. Both sides stated that the Child Welfare Committee, Puducherry, conducted a meeting on 29.11.2022 in which, the petitioner and the third respondent participated. On the consent of the petitioner and the third respondent, the children were handed over to the petitioner's mother Jeeva @ Periyamayagi. However, the learned counsel for the petitioner and the learned counsel for the third respondent contended that the Child Welfare Committee, Puducherry, has not passed any formal order in this regard.

3. Therefore, we direct the Child Welfare Committee, Puducherry, to submit a status report to this Court on the next hearing date.

Call on 13.12.2022.”

4. Pursuant to the above, the Child Welfare Committee has filed a status report dated 09.12.2022 wherein, it is stated that a detailed enquiry was conducted, after which, the Child Welfare Committee has handed over the custody of the two children viz., (i) Simon and (ii) Tyson to Jeeva @ Periyamayagi, the mother of Bharathi (petitioner) temporarily until the parties resolved the disputes through a competent court.



5. The relevant portions of the findings recorded by the Child Welfare

Committee in its report are as under:-

“Findings of CWC:

The Biological father of the children Mr.Veerapandian is not in India, he is reported to be living Abroad/London, since 4 years back. As per the statement it is revealed that the Biological mother Bharathi had obtained the “Legal separation Order from Veerapandian vide divorce order dated 29.11.2021. In between the mother and children were under the care of her mother namely Periyannayagi till date.

It is humbly submitted that this CWC's priority is to provide safety and protect the well being of the children. Child custody is often a major bone of contention between the sparring couple. In case of a minor children both the parents have an equal right over the child after divorce. The CWC will only ensure rehabilitation, restoration, care and protection to the children as we can only give instruction to parent or fit person to provide facility necessary for the well being and proper development of the child. Unless the CWC does no confer power to give



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custody of a child.

The children were found to be affected by the clash between the parties. Further the maternal grand mother namely Mrs.Periyanayagi claimed the custody of the children till the dispute gets settled.

Hence, this CWC considering the best interest of the children it is decided to send the children to maternal grand mother Periyanayagi temporarily and also educated both parties may approach proper court of law for obtaining proper custody/guardianship order. Accordingly, separate undertaking was obtained from the parties and case posted for further follow up and observation.”

6. We find no irregularity in the findings of the Child Welfare committee which has borne in mind the best interest of the children while handing over their custody to their maternal grand mother.

7. We also place on record our appreciation to the Child Welfare Committee, Puducherry, for the manner in which they handled the instant



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case. As advised by the Child Welfare Committee, Puducherry, it is open to the petitioner to approach the appropriate court for taking custody of her minor children from her mother Jeevan @ Periyamayagi.

Recording the same, this Habeas Corpus Petition is closed.

(P.N.P., J.) (N.A.V.,J.)
13..12..2022

Index: Yes/No
kmk

To

- 1.The Superintendent of Police,
Pondicherry.
- 2.The Inspector of Police,
Urulayanpettai Police Station,
Pondicherry.
- 3.The Public Prosecutor (Puducherry),
High Court, Madras.



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