



**H.C.P.(MD) No.1116 of 2022**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 14.07.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH  
AND  
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

**H.C.P.(MD) No.1116 of 2022**

Sumithra Devi

... Petitioner

-VS-

1.The Superintendent of Police,  
Office of the Superintendent of Police,  
Theni District.

2. The Inspector of Police,  
All Women Police Station,  
Theni District.

3. Arockia Anandha Rajan

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus, pleased to direct the respondents to produce the body and



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person of the petitioner's twin sons namely Mikhael and Raphael, aged 3 years before this Court and hand over the custody of the detenu to the petitioner.

For Petitioner : Mr.Na.Manimaran

For Respondents : Mr.A.Thiruvadi Kumar,  
Additional Public Prosecutor

**ORDER**

**[Made by P.N.PRAKASH, J.]**

This habeas corpus petition has been filed seeking to direct the respondents herein to produce the body or person of the petitioner's twin sons, viz., Mikhael and Raphael, aged 3 years before this Court and hand over the custody of the two children to the petitioner.

2. Sumithra Devi got married to Arockia Anandha Rajan on 16.01.2018 and through the wedlock, the couple were blessed with twins – Mikhael and Raphael on 27.07.2019.



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3. It is the case of Sumithra Devi that, on account of some domestic quarrel, she got separated from her husband and continued to live in her natal home in Theni with the two children. It is the further case that, she left for Dubai leaving the two children with her parents in Theni and while she was away, her husband forcibly took away the two children from the custody of her mother on 22.05.2022 and therefore, she has filed the present habeas corpus petition.

4. Heard Mr.K.M.Karunakaran, learned counsel for the petitioner, Mr.T.Senthil Kumar, learned Additional Public Prosecutor, appearing for the respondents 1 and 2 and Mr.R.R.Kannan, learned counsel appearing for the third respondent.

5. Today, Mrs.A.Malarammal, Sub-Inspector of Police, All Women Police Station, Theni, is present before this Court.

6. On our directions, the police produced the twins and Arockia Anantha Rajan. Arockia Anantha Rajan stated that his wife Sumithra Devi left for Dubai even without informing him and since the children were left by her in the custody



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of her parents, he brought the children to his place in Dindigul and since then, he is taking care of the two children. He also stated that, he has filed I.D.O.P.No.186 of 2022 in the Family Court, Dindigul, for restitution of conjugal rights.

7. Sumithra Devi stated that, she has made arrangements to take the children also to Dubai, where she is working as a Nurse.

8. To this, Arockia Anantha Rajan contended that, if the custody of the children is handed over to Sumithra Devi, she would take the children once and for all to Dubai and he would not have any access to the children.

9. We gave our anxious consideration for the aforesaid submissions. We are of the opinion that, the custody of the children with their father while their mother was on employment in Dubai, cannot be said to be *per se* illegal for the issuance of a writ of habeas corpus. That apart, when Arockia Anantha Rajan has already initiated proceedings in the Family Court, Dindigul, in I.D.O.P.No.186 of 2022, it will be in the interests of justice, if the parties resolve their disputes before the appropriate Court.



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10. With the above observation, this habeas corpus petition is closed. However, we grant unhindered visitation rights to Sumithra Devi to have access to the children in the residence of Arockia Anantha Rajan, but she cannot taken away the children. The petitioner shall enter appearance in I.D.O.P.No.186 of 2022 in the Family Court, Dindigul, and the parties may be referred for mediation there. The aforesaid visitation rights given by us is only a temporary measure and the appropriate Court can modify or cancel or alter the visitation rights, if required.

[P.N.P., J.] [R.H., J.]  
14.07.2022

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**P.N.PRAKASH, J.**  
**and**  
**R.HEMALATHA, J.**

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To:

- 1.The Superintendent of Police,  
Office of the Superintendent of Police,  
Theni District.
2. The Inspector of Police,  
All Women Police Station,  
Theni District.
3. The Family Court, Dindigul.  
(I.D.O.P.No.186/2022)
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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