



H.C.P.(MD) No.1923 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.(MD) No.1923 of 2022

R.Subashini

... Petitioner

-VS-

- 1.The District Collector,
Kanyakumari District,
- 2.The Superintendent of Police,
Kanyakumari District.
- 3.The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
- 4.The District Child Welfare Unit,
Nagercoil,
Kanyakumari District.
- 5.P.Stanley

6.Kala

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, directing the third respondent to produce the person or body of the petitioner's daughter Sahana D/o.M.Suresh, aged about 2 ½ years and entrust the custody of the child to the petitioner.

For Petitioner	: Mr.J.Jawahar
For R1 to R4	: Mr.S.Ravi Additional Public Prosecutor
For R5 & R6	: Mr.S.Sureshkumar

ORDER

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

The petitioner is a biological mother of a female baby born on 22.09.2019. It is alleged that the respondents 5 & 6 have taken the custody of the child promising to bring up the child properly, but stealthily created a record as if the child is born to them, hence, she filed a petition for issuance of writ of Habeas Corpus.

2. Today, the petitioner present before this Court along with her husband through whom the child was born. The minor child was brought to this Court by

2/6



H.C.P.(MD) No.1923 of 2022

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the respondents 5 & 6. It is an admitted fact that the minor child was born to the petitioner through her third husband. The fifth respondent is the younger brother of her first husband, who died after giving birth to one child.

3. According to the learned counsel appearing for the respondents 5 & 6, the minor child, soon after the birth, was given custody to the respondents 5 & 6 voluntarily by the petitioner and for the past 3 ½ years the child is brought up by the respondents 5 & 6. While so, it is falsely contended by the petitioner that the parents of the minor child has been wrongly entered in the records.

4. This Court without advertting to the other aspects which are narrated in the affidavit as well as the oral submission made by the respective counsel, to decide the custody of child, the biological parents, who are present before this Court, are at their better footing and therefore, the minor child Sahana is handed over to the petitioner Mrs.R.Subashini and her husband Suresh.

5. However taking note of certain facts, this Court is of the view that the petitioner and her husband Suresh need to be monitored by the District Protection



H.C.P.(MD) No.1923 of 2022

Officer, Kanyakumari District whether they are properly taking care of the minor child. If they failed to take care of the minor child, the District Protection Officer is at liberty to take appropriate action against them and report the matter to the local police station as well as to this Court referring this Habeas Corpus Petition number. The petitioner and her husband are directed to take care of the child properly. If anything adverse is brought to the notice of this Court, appropriate legal action will be taken against them.

6. Accordingly, this Habeas Corpus Petition is allowed. No costs.

Index : Yes / No
Internet : Yes / No
am

[G.J.,J.] [S.M.,J.]
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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