



HCP(MD)No.1840 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.11.2022

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.1840 of 2022

T.Ravi Chandran

.. Petitioner /Father of the
detenu

Vs.

1.The Superintendent of Police,
Dindigul District.

2.The Inspector of Police,
Dindigul Town North Police Station,
Dindigul District.

3.L.V.S.R.Vijaya Kumar

4.V.Jayanthi

5.Sheela

6.Anand

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents 1 & 2 to produce the body or person of the detenu/the petitioner's minor son namely R.Harshal Patoj, S/o.T.Ravi Chandran, aged about 8 years, who is illegally detained by the third and sixth respondents before this Court and hand over his custody to the petitioner.



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For Petitioner :Mr.C.S.S.Pillai
For R1 and R2 :Mr.E.Antony Sahaya Prabhu,
Additional Public Prosecutor

ORDER

M.S.RAMESH,J.
and
N. ANAND VENKATESH,J.

This Habeas Corpus Petition was filed by the father of the detenu to secure and produce his son, who is aged about 8 years.

2.The detenu was produced before this Court by the third and fourth respondents, who are none other than the grandparents of the detenu.

3.We enquired the petitioner and he stated that the marriage took place in the year 2008 and his wife died due to cardiac arrest on 06.04.2022. After the demise of his wife, since he wanted his son to mingle with others, he permitted his son to stay with the grandparents at Dindigul. He also permitted his son to be admitted in a School at Dindigul. All of a sudden, the third and fourth respondents totally prevented the petitioner from getting



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in touch with the son and as a result of which, the present petition has been filed before this Court.

4.The petitioner assured this Court that he will take all steps to immediately get admission to the detenu in a School at Chennai, even though it is in the middle of the academic year. He further gave an assurance that whatever the property that was given to the wife as Sridhana will be given in favour of the detenu and appropriate steps will be taken in this regard.

5.We enquired the third and fourth respondents and they stated that they have given sufficient movable and immovable properties to their daughter and the petitioner is trying to knock off the entire properties. In the beginning they stated that they have no objections in the petitioner taking over the custody of the child. However, towards the end, they started impressing upon us to permit the boy to stay with them for two years and thereafter, the boy will be sent to the petitioner. They also apprehended that the petitioner may go for a second marriage and that it will go against the welfare of the child.



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6. In the considered view of this Court, we cannot go into the property dispute between the parties and the apprehension that the petitioner may contract a second marriage. The same is beyond the scope of this Habeas Corpus Petition. The petitioner is the natural guardian of the detenu and the wife had only died on 06.04.2022 due to cardiac arrest. There is absolutely no reason as to why the petitioner should be deprived of the custody and guardianship of the child. The dispute between the petitioner and the third and fourth respondents cannot be brought in to prevent the custody of the child from being handed over to the petitioner, who is the natural guardian.

7. In view of the above, we direct the custody of the detenu to be handed over to the petitioner. It is always left open to the third and fourth respondents to visit and spend time with the grandson. Apart from that, the third and fourth respondents cannot ask for the custody or guardianship of the child.

8. The second respondent police is directed to take note of this order and close the CSR pending against the respondents 3 to 6.



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9. In view of the above, this Habeas Corpus Petition is disposed of.

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(M.S.R.,J.) (N.A.V.,J.)
09.11.2022

Index: Yes/No

Internet: Yes/No

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To

1. The Superintendent of Police,
Dindigul District.

2. The Inspector of Police,
Dindigul Town North Police Station,
Dindigul District.

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



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