



WEB COPY



W.P.No.10077 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2023

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.10077 of 2023

and W.M.P.Nos.12246 & 12349 of 2020

C.Kanimozhi

...Petitioner

vs.

1.The Regional Director of
Municipal Administration
Arisipalyam, Salem-9
Dharmapuri District.

2. N.Natarajan.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other appropriate writ or direction directing the 1st respondent to take appropriate steps or action to inspect and assess the medical of the petitioner's second son Mr.Rishivanth along with a Doctor and the petitioner, who is residing with the 2nd respondent at H.Pudupatti, Pappireddipatti Taluk, Dharmapuri District and file a report before this Hon'ble High Court with a copy to the petitioner till the child Rishivanth is in the care and custody of the 2nd Respondent.



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For Petitioner : Mr.Silambannan
Senior Counsel
for Kaavya Silambanan

For Respondents : Mr.V.Manoharan,
Additional Government Pleader for R1.

: Mr.M.R.Sothimanian for R2

ORDER

This Writ Petition has been filed for a direction to the 1st respondent to take appropriate action to inspect and assess the medical condition of the petitioner's second son Rishivanth in the presence of the petitioner and file a report to that effect before this Court till the child remains in the care and custody of the 2nd respondent.

2. It is the case of the petitioner that her marriage with the 2nd respondent was solemnized on 1984. Out of the wedlock, she was blessed with two children namely Manoj Kumar & Rishiwanth, of which, the second child, Rishiwanth is mentally retarded since his birth. Due to some matrimonial dispute between the petitioner and the 2nd respondent, the 2nd respondent filed a petition for divorce in FCOP No.59 of 2014 before the Family Court, Salem pursuant to which, the petitioner filed an application in



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I.A.No.146 of 2015 seeking maintenance, however, the said application was dismissed. Subsequently, the FCOP was dismissed as not pressed. While so, the petitioner filed a Writ Petition in W.P.No.19366 of 2019 before this Court, seeking maintenance, which was disposed of recording the joint memo filed by the parties, pursuant to which, the child was kept under the care of Mental Health Centre. Now, the child is under the custody of the 2nd respondent. However, the 2nd respondent is not allowing the petitioner to visit her child and the petitioner is under the apprehension as to whether proper care is being given to her child. Therefore, in order to know the medical condition of her mentally retarded son, the petitioner has filed this Writ Petition.

3. When the matter is taken up for hearing, learned counsel for the petitioner submitted that the petitioner has filed a petition in HMOP No.410 of 2020 for divorce, before the Family Court, Salem and the same has been re-numbered and transferred to Family Court, Dharmapuri vide order dated 04.08.2022 in Tr.C.M.P.No.369 of 2022 and therefore, necessary orders may be passed in the present Writ Petition.



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4. Heard both sides and perused the materials available on record.

5. Though this Writ Petition has been filed seeking the aforesaid relief, however, in view of the pendency of HMOP proceedings before the Family Court, Dharmapuri, no orders can be passed by this Court in the present petition and therefore, liberty is granted to the petitioner to canvass all the points relating to the present issue before the court below where the HMOP is pending.

6. Accordingly, this Writ Petition stands disposed of with the aforesaid liberty. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

05.06.2023

Index : Yes/No
Speaking order : Yes/No
NHS



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M.DHANDAPANI,J.

NHS

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