



HCP(MD)No.867 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.867 of 2023

S.Vijayarajan

.. Petitioner

Vs.

1.The Superintendent of Police,
Virduhunagar District,
Virduhunagar.

2.The Inspector of Police,
Elayairampannai Police Station,
Virduhunagar District.

3.Azhagurani

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents 1 and 2 to produce the petitioner's minor daughter namely Nithiya Shree V., D/o.S.Vijayarajan or her body before this Court and handover her custody to the petitioner.

For Petitioner : Mr.M.Jerin Mathew

For Respondents : Mr.RMS.Sethuraman,
Addl. Public Prosecutor for R1 & R2
Mr.T.Nixon for R3



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ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The petitioner herein is the father of minor V.Nithiya Shree, aged about 8 years. His wife had expired on 24.04.2022, at which point of time, he had entrusted his minor son viz., Prakash Pandi to one Veeralachumi, who is the sister of his wife and his minor daughter viz., Nithiya Shree to Azhagurani, third respondent herein, who is also the sister of his wife. Thereafter, when he had sought for return of the custody of his children, his son alone was entrusted to the petitioner and the third respondent had not restored the custody of Nithiya Shree. It is in this background, he has filed the present Habeas Corpus Petition.

2. Pending the Habeas Corpus Petition, we had directed the second respondent herein to secure the presence of the petitioner's minor daughter.

3. Today, when the matter was called, we had interacted with the petitioner, who expresses that he has much love and affection towards his



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minor daughter and he intends to raise her by himself. He has also submitted that he is in the retail business of Textile. He further assures that if the custody of the minor daughter is secured and restored to him, he would put her in a school and continue her education. We have taken note of the fact that the petitioner herein is the father and natural guardian of minor Nithiya Shree, who may have the legal right to have his daughter rather than the third respondent herein. We had also spoken with the petitioner's minor son, who also wanted to live with his sister Nithiya Shree.

4. On an over all consideration of these facts, we are of the affirmed view that the custody of the minor Nithiya Shree can be restored to the petitioner, who is the father and natural guardian. Accordingly, there shall be a direction to the third respondent herein to restore the custody of minor Nithiya Shree to her father, who is the petitioner herein, forthwith. The petitioner shall ensure that his minor daughter continues her studies from the class, from which she is being discontinued and take care of her.

5. With these observations, this Habeas Corpus Petition stands closed. It is needless to point out that whenever the third respondent intends to visit



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the children of the petitioner herein, it is always open to her to visit the children, after intimating to the petitioner. The petitioner shall not resist or refuse to such visitation.

(M.S.R.,J.) (M.N.K.,J.)
17.07.2023

NCC : Yes / No
Index : Yes / No

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To

- 1.The Superintendent of Police,
Virduhunagar District,
Virduhunagar.
- 2.The Inspector of Police,
Elayairampannai Police Station,
Virduhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

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