



HCP(MD)No.1057 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.08.2023

CORAM

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

H.C.P.(MD)No.1057 of 2023

R.Amjad Hasan

.. Petitioner / Biological Father

Vs.

1.The Commissioner of Police,
Office of Commissioner of Police,
Trichy City.

2.The Inspector of Police,
Manikandam Police Station,
Manikandam, Trichy.

3.J.Joeus William Suresh

4.J.Shobi Florance Johnson

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondent Nos.1 and 2 to produce the petitioner's son Minor J.Amoz Zivon, S/o.Amjad Hasan, aged about 11 years born on 01.06.2012, from the illegal detention of respondent Nos.3 and 4 before this Court and handover the custody to the petitioner.



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For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.R.M.S.Sethuraman
Addl. Public Prosecutor for R1
& R2
Mr.Mr.K.Navaneetharaja for R3
& R4

ORDER

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

Claiming to be the biological father of Minor J.Amoz Zivon, born on 01.06.2012 and aged about 11 years, who is now under the care and custody of the respondents 3 and 4, the present Habeas Corpus Petition has been filed.

2. According to the petitioner, he was in relationship with one Ms.T.Nancy Dayana, through whom, the minor boy was born. When Ms.T.Nancy Dayana died on 14.09.2022, her boy was in the care and custody of the respondents 3 and 4 herein. The third respondent is the husband of Nancy Dayana and the fourth respondent is his sister.



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3. The learned Additional Public Prosecutor, on instructions, submitted that the petitioner's complaint has been registered on 24.07.2023 in C.S.R.No.308 of 2023, on the file the second respondent. Based on the statement given by the petitioner as well as the third respondent that they would avail the appropriate remedy before the civil Court, the complaint has been closed on the same day i.e., on 24.07.2023.

4. The second respondent herein had produced the minor J.Amoz Zivon before us and in our interaction with him, he told that he is now residing with the respondents 3 and 4 and pursuing seventh standard at St.James Academy, Trichy. He also expressed that he intends to live with the third respondent.

5. We do not find the custody of the boy with the respondents 3 and 4 as illegal, since the third respondent was legally wedded to T.Nancy Dayana and the marriage is registered through a certificate of marriage issued by Pastor, TELC, under Marriage Registration No.03/2010, which evidences that the marriage had taken place on 16.04.2010.



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6. We had also noticed that there are certain immovable properties standing in the name of Late.T.Nancy Dayana, which may have devolved on the minor boy, owing to her death. In case, the petitioner is of the view that he is entitled for the guardianship of the minor boy, this Court will not be the forum to determine such disputed questions of facts and the appropriate forum would be the civil Court, exercising such jurisdiction for declaration of guardianship. Thus, no effective orders can be passed in the present Habeas Corpus Petition.

7. Accordingly, the Habeas Corpus Petition stands dismissed.

(M.S.R.,J.)

(M.N.K.,J.)

21.08.2023

NCC : Yes / No

Index : Yes / No

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- 2.The Inspector of Police,
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Manikandam, Trichy.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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