



H.C.P.No.826 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
and
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.826 of 2024

P.Selvi

... Petitioner

Vs.

1.The District Superintendent of Police
Nagapattinam District
District Superintendent of Police Office
Nagapattinam

2.The Inspector of Police
Nagoor Police Station
Nagoor
Nagapattinam District

3.Baskaran

4.Ezhil Raj

5.Kamaraj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents 1 to 5 to produce the petitioner's younger brother Asaithambi (mentally unsound person), S/o.Late M.R.Rajendran, aged 45 years before this Court and set him at liberty.



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For Petitioner : M/s.Mythili Srinivas
For Respondents : Mr.A.Gokulakrishnan,
Addl. Public Prosecutor - R1 & R2
Mr.K.Prasadesh Kumar - R3 to R5

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

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

The petitioner, alleging that her younger brother R.Asaithambi, aged about 45 years, who is mentally unsound has been forcibly detained by the 3rd respondent herein, who is the petitioner's brother in law, has come forward with the above Habeas Corpus Petition. While the petitioner claims that her sister, who is married to the 3rd respondent, is also mentally challenged and that she will not be in a position to take care of her brother. The counsel for the 3rd respondent denies such allegations.

2.Ultimately, the petitioner herein seeks for guardianship and the consequential custody of her brother. The 3rd respondent's wife is also a



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sister of the detenu. While that being so, the proper remedy for the parties herein is to approach the concerned Court of law seeking for appointment of a guardian of Mr.R.Asaithambi.

3.It is now brought to our notice that the detenu is a co-sharer of the properties of his parents, who had died intestate. Since no guardian has been appointed for the detenu till date, the properties standing in the names of Late Mr.M.R.Rajendran and Mrs.Manoranchitham, who are the parents of the petitioner and the detenu shall not be alienated or no encumbrance be created over the same by any of the co-sharers.

4.Furthermore, the petitioner herein being the sister of the detenu is at liberty to visit her brother as and when she requires, after giving prior notice to the 3rd respondent or to his wife.

5. With the above direction, this Habeas Corpus Petition stands closed. No costs.

[M.S.R., J] [S.M., J]
29.07.2024

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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

kas

To.

1.The District Superintendent of Police
Nagapattinam District
District Superintendent of Police Office
Nagapattinam

2.The Inspector of Police
Nagoor Police Station
Nagoor
Nagapattinam District

3.The Public Prosecutor
High Court of Madras
Chennai 600 104

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