



HCP.No.1073 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.1073 of 2024

P.Vasanthaprasanna

... Petitioner

Vs.

1.The State Rep by
The Superintendent of Police,
Namakkal.

2.The State Rep by
The Inspector of Police,
Jedarpalayam Police Station,
Namakkal District.

3.Mrs.Nathiya

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents herein to produce the person and body of the Petitioner's minor daughters namely 1) V.Dhanmathi Arunthamil aged about 8 years and 2) V.Rithviniyazhisai aged



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about 1 years and 8 months, from the custody of the Respondent No.3 before this Hon'ble Court and hand over them to the petitioner.

For Petitioner : Mr.A.Raja Mohamed
For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

Owing to certain matrimonial dispute, the third respondent/wife of the petitioner is living separately along with her two minor children. Claiming custody of the minor children with the petitioner's wife as illegal, the present Habeas Corpus Petition has been filed.

2.At the outset, it is pertinent to mention that none of the averments made in the affidavit can be construed as an illegal custody of the children with the mother/natural guardian. Since the welfare of two minor children were involved in the present case, we had referred the parties for mediation and after deliberations, it is represented by the Mediation Centre that the proceedings have failed. Even thereafter, when the third respondent/wife submitted that she is willing to reconcile with the petitioner herein and live



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in a separate house along with the children, the petitioner/husband sought time and accordingly, the matter was listed today.

3.The learned counsel for the petitioner would now submit that he had no instructions from the petitioner in spite of his efforts to get such instructions.

4.In these circumstances, it would not be conclusive to pass orders compelling the petitioner herein to accept the third respondent and live in a separate house. Further, since the custody of the minor children with the third respondent is not illegal, we are unable to entertain the prayer sought for in the present Habeas Corpus Petition. However, since the petitioner is the father of the minor children, liberty is hereby granted to the petitioner to visit his minor children as and when required and during such visits, the third respondent shall not cause any obstruction to freely have access over his minor children. Further more, the parties are granted liberty to go before the appropriate Court of law with regard to the custody of the minor



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children.

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5.The Writ Petition stands dismissed with the above observations. No costs.

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

Index: Yes/No

Tsg

To

- 1.The Superintendent of Police,
Namakkal.
- 2.The Inspector of Police,
Jedarpalayam Police Station,
Namakkal District.
- 3.The Public Prosecutor,
High Court, Madras.



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

Tsg

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