



WEB COPY



H.C.P.No.1289 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1289 of 2024

M.Sathishkumar

...Petitioner/Father of the detenu

Vs.

1.The Deputy Superintendent of Police,
Thiruchengode,
Namakkal District.

2. The Sub-Inspector of Police,
Veppadai Police Station,
Namakkal District.

3.Ponnusami

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Habeas Corpus, directing the 1st and 2nd Respondents to produce the petitioner's minor son namely Vihan S/o Sathishkumar, aged about 05 years, before this Court, from the custody of 3rd respondent and hand over this custody of the petitioner.



WEB COPY



H.C.P.No.1289 of 2024

For Petitioner : Mr.M.Vijayaragavan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
[For R1 and R2]

Ms.R.Hemalatha
For R3

ORDER

[Order of the Court was made by ***M.S.RAMESH,J.***]

The petitioner is the father of a minor boy aged about five years.

His wife had died on 04.03.2024 and it is claimed that there is an enquiry on her death under Section 174 of Cr.P.C. Since the petitioner's minor son who is under the care and custody of the third respondent/father-in-law, and his family, he seeks for custody of his minor son.

2. In the affidavit filed in support of the present Habeas Corpus Petition, it is admitted by the petitioner that after the birth of his minor child, the child had stayed for eleven months along with his mother in her parents' house. Thereafter, she had returned, and again, there was a quarrel between the petitioner and his wife, owing to which she went back to her parents' house. It is further averred in the affidavit that she had been living with her



H.C.P.No.1289 of 2024

minor son in her parents' house for more than three years thereafter. In this background, she had died recently, on 04.03.2024.

3. We have taken note of the fact that during the five years of the child's life, he had been under the care and protection of not only his mother but also his maternal grandparents. Since most of his life has been spent in his maternal grandparents' house, separating the child now and reconciling him with the petitioner/father may not be conducive. However, we have also taken note of the fact that the father, being the natural guardian, would be entitled to seek for guardianship over his child. Thus, it would be appropriate to grant him the liberty to approach the concerned courts of law seeking for such guardianship.

4. In the meantime, there shall be an interim arrangement for the petitioner, as well as his parents/paternal grandparents of the minor boy, to visit the minor child at their residence on every Saturday between 10.00 a.m. to 1.00 p.m., commencing from 10.08.2024.



H.C.P.No.1289 of 2024

5. Accordingly, the petitioner is granted the liberty to file an appropriate application before the concerned courts of law seeking for guardianship. Therein, the petitioner would also have the liberty to seek for modification of the interim arrangement of visitation. In case, such an application is filed seeking for modification of the visitation, the concerned court shall pass appropriate orders after giving due opportunities to both sides and in accordance with the law, without being influenced by any of the observations made in this order or the present arrangement of visitation rights.

6. In view of the above, this Habeas Corpus Petition stands disposed of.

[M.S.R., J] [S.M., J]
30.07.2024

Index : Yes / No
Neutral Citation : Yes / No
Speaking/Non Speaking order
dk



H.C.P.No.1289 of 2024

Copy to:

1. The Deputy Superintendent of Police,
Thiruchengode,
Namakkal District.
2. The Sub-Inspector of Police,
Veppadai Police Station,
Namakkal District.
3. The Public Prosecutor
High Court, Madras.



WEB COPY



H.C.P.No.1289 of 2024

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

dk

H.C.P.No.1289 of 2024

30.07.2024