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H.C.P.No.2222 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2024

CORAM :

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2222 of 2024

D.Dharshini

.. Petitioner

v.

1. The Deputy Commissioner of Police
Pulianthope Range
Chennai 600 012

2. The Inspector of Police
P-6, Kodungaiyur Police Station
Kodungaiyur
Chennai 600 118

3. Dilli Ganesh
S/o Shanmugam

4. Shanmugam
F/o Dilli Ganesh

5. Yamunarani
W/o Shanmugam

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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praying for issuance of a Writ of Habeas Corpus, directing the respondents 1 and 2 herein to secure the detenu D.Lakshika, aged 5 years and detenu D.Pranav, aged 4 years from the custody of the 3rd, 4th & 5th respondents and produce them before this Hon'ble Court for entrusting to the lawful custody of their mother/petitioner herein or to set them at liberty.

For Petitioner :: Mr.M.Soundar Vijay Arul Ram

For Respondents :: Mr.E.Raj Thilak
 Additional Public Prosecutor
 for R1 & R2
 Mr.K.Subbu Raj for R3, R4 & R5

ORDER

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

This writ of habeas corpus petition has been instituted to direct the respondents 1 & 2 to secure the detenus D.Lakshika, aged about 5 years and D.Pranav, aged about 4 years.

2. The petitioner is the wife of Dilli Ganesh, the third respondent. From and out of their wedlock, two children were born. A girl aged about 5 years and a boy aged about 4 years. The petitioner states that on account of matrimonial disputes between the petitioner and the third respondent, they



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are living separately and the children are taken care of by the respondents 3 to 5. The fourth and fifth respondents are the father and mother of the third respondent.

3. The parties are present before this Court. We have requested the third respondent to handover the children to the petitioner, who is the mother of the children. Both the children were accordingly handed over. However, the children started crying and they were returned back to their father. Thus, prima facie, we could draw an inference that the children are not interested to join with the mother. However, this finding is only for the purpose of deciding the habeas corpus petition and the rights of the parties for custody have to be decided by the appropriate Court in the manner known to law. That apart, the children are now with the father and paternal grandparents, who are taking care of the children. Thus, they are not in illegal detention and for the limited purpose of deciding this habeas corpus petition, we have made the above findings, which will not have any bearing in the event of institution of any proceedings before the competent Court for the purpose of resolving the matrimonial issues or custody or visitation



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rights or other reliefs, as the case may be. With these observations, the

habeas corpus petition stands disposed of.

Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes/no

12.09.2024

SS

To

1. The Deputy Commissioner of Police
Pulianthope Range
Chennai 600 012
2. The Inspector of Police
P-6, Kodungaiyur Police Station
Kodungaiyur
Chennai 600 118
3. The Public Prosecutor
High Court, Madras



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S.M.SUBRAMANIAM,J.

AND

V.SIVAGNANAM,J.

SS

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