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HCP.No.2848 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.2848 of 2024

Vishal

... Petitioner

Vs.

1. The Commissioner of Police,
Egmore, Chennai.
2. The Inspector of Police,
V-6, Kolathur Police Station,
Kumaran Nagar, Kolathur,
Chennai - 600 082.
3. Priya
4. Parthasarathy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the 1st and 2nd respondents to hand over the petitioner's son V.Jagadeeswar (Autism child) aged about 6 years who is under the custody of the 3rd respondent.



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For Petitioner : Ms.G.Niveditha
For Respondents : Mr. R.Muniyapparaj
Additional Public Prosecutor
[For R1 & R2]
: Ms.R.Umamaheswari
[For R3]

ORDER

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

The writ of habeas corpus petition has been instituted to direct the respondents 1 and 2 to handover the minor boy viz., Master V. Jagadeeswar (Autism Child) aged about 6 years.

2. The petitioner is the father of the minor boy. The third respondent is the mother. On account of difference of opinion, the petitioner and the third respondent are living separately. The minor boy along with the mother are produced before this Court by the Police Authorities. We have examined the mother. The minor boy is unable to speak and the third respondent/mother informed us that the boy was under her custody right from his birth. Suddenly, three months back, the petitioner had forcibly



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taken away the child from the mother/third respondent and admitted in the fourth respondent's Rehabilitation Centre. Taking away the minor child forcibly and getting him admitted in the fourth respondent's Rehabilitation Centre resulted in institution of the complaint. The third respondent would submit that she will provide all necessary assistance to the minor boy and she only had admitted him to get speech therapy in the fourth respondent's Centre.

3. Ms.G.Niveditha, the learned Counsel appearing on behalf of the petitioner would submit that the petitioner is ready to resume the matrimonial home with the third respondent.

4. The third respondent is also willing to resume the matrimonial home. This being the consensus now arrived between the petitioner and the third respondent, they are at liberty to negotiate with the assistance of the elders or mediators and resume the matrimonial home for the interest of the minor boy and another girl child born from and out of the wedlock between the petitioner and the third respondent.



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5. As far as the custody is concerned, the minor boy was under the custody of the third respondent/mother all along from his birth and that being so, the petitioner is not entitled for custody of the minor boy. The third respondent shall have the custody of the minor boy and provide all assistance for speech therapy and education. If any other matrimonial dispute exists between the petitioner and the third respondent, it can be resolved amicably in the manner known to law. The minor boy has already been handed over to the third respondent/mother, who in turn undertakes that she will take care of the boy.

6. With the above observations, the Habeas Corpus Petition stands **disposed of**.

[S.M.S., J.] [M.J.R., J.]
08.11.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda



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To

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1. The Commissioner of Police,
Egmore, Chennai.
2. The Inspector of Police,
V-6, Kolathur Police Station,
Kumaran Nagar, Kolathur,
Chennai - 600 082.
3. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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S.M.SUBRAMANIAM, J.
AND
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