



WEB COPY



HCP.No.2931 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.2931 of 2024

Miruthula

... PETITIONER

Vs

1 The Superintendent of Police
Erode District ,
Erode - 638 001.

2 The Inspector of Police
Sathyamangalam Police Station,
Erode District - 638 401.

3 P. Manikandan

... RESPONDENT

PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the body and person of petitioners minor son namely Hariaadhithya son of Manikandan, aged about 1 year, 5 months before this Hon'ble Court, handover to the petitioner.

For Petitioner : Mr. R. Raj Prabhu

For Respondents : Mr.R. Muniyapparaj
Additional Public Prosecutor,
for R1 and R2
: Mr. G. Krishnakumar,
for R3



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ORDER

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

The Writ of Habeas Corpus has been instituted to direct the respondents to produce the minor baby, namely, Manikandan, aged about one year and 5 months.

2. The marriage between the petitioner and the 3rd respondent was solemnized on 29.08.2022 as per Hindu Rites and Customs. From and out of wedlock, a male baby born on 25.05.2023, now aged about one year and 5 months. Matrimonial dispute exists between the petitioner and the 3rd respondent.

3. The 2nd respondent police produced the baby along with the 3rd respondent. The petitioner is also present before this Court. The mother of the 3rd respondent is also present.

4. We have examined the parties.



5. The 3rd respondent states that he is not willing to resume the matrimonial home. He took such a decision in consultation with his mother in the Court. He further says that he require some more time to think about resumption of matrimonial home.

6. The petitioner made a submission that presently she is residing along her mother and working. She is ready and willing to resume the matrimonial home with the 3rd respondent. When the petitioner is ready and willing to resume the matrimonial home, the 3rd respondent rejected the proposal by stating that he require some more time to think about the said proposal. However, it is for the petitioner and the 3rd respondent to take a decision with the assistance of the elders of the family or by approaching the competent Court of Law.

7. As far as the minor boy, aged about one year and 5 months is concerned, Section 6(a) of the Hindu Minority and Guardianship Act, enumerates that " in the case of a boy or an unmarried girl, the father and after him, the mother provided that the custody of a minor, who has not completed the age of 5 years shall ordinarily be with the mother."



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8. The minor boy is aged about one year and 5 months and therefore, the custody of the child must be preferably with the mother at this stage. Regarding Matrimonial dispute, the parties are at liberty to settle the same in the manner known to law.

9. In view of the above facts and circumstances, we have allowed the petitioner to take custody of the minor child forthwith. Regarding visitation rights, the 3rd respondent is at liberty to approach the competent Court of Law.

10. Accordingly, this Habeas Corpus Petition is disposed of.

[S.M.S., J.]

[M.J.R., J.]

03.12.2024

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

mrp

To

- 1 The Superintendent of Police
Erode District ,
Erode - 638 001.
- 2 The Inspector of Police
Sathyamangalam Police Station,
Erode District - 638 401.
3. The Public Prosecutor,



High Court, Madras.

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