



W.P.(MD) No.5642 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2024

CORAM

THE HON'BLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

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A.Banumathi

... Petitioner

Vs.

- 1.The District Collector,
O/o. the District Collector,
Madurai, Madurai District.
- 2.The Superintendent of Police,
O/o. the Superintendent of Police,
Theni, Theni District.
- 3.The Inspector of Police,
Usilampatti Taluk Police Station,
Peraiyur Main Road,
Usilampatti – 625 532.
- 4.G.Senthilnath
- 5.S.Sheeba
- 6.The Managing Director,
Booma Nursing Home,
22, Gokhle Road, Chokikulam,
Madurai 625 002.
- 7.The Managing Director,
Sri Lingammal Nursing Home,



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WEB COPY 3rd Street, Bangalamedu,
Theni 625 531.

8.The Chairman,
Velammal Medical College and Hospital,
Chinthamani,
Madurai 625 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents 2 and 3 to take action against the Respondents 4 to 8 on the basis of the Petitioner's representation dated 29.11.2023, within a time frame as fixed by this Court.

For Petitioner : Mr.K.Neelamegam

For R1 to R3 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

The learned Counsel for the Petitioner would submit that the Petitioner had filed this Writ Petition seeking custody of the children from the fourth and fifth Respondents G.Senthilnath and S.Sheeba.

2. As per the Affidavit of the Petitioner, she was already married to one Sundaragajapathy and he was addicted to alcohol. She was obtained



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divorce from the said Sundaragajapathy in Village Panchayat.

Subsequently, the fourth Respondent in this Writ Petition was introduced to her. He took her as his wife. In that relationship, he did not disclose the fact that he had already married the fifth Respondent S.Sheeba. In the course of such relationship, the Petitioner delivered three children. After delivery, the Birth Certificate were issued from the Hospitals, wherein, the name of the father has been given as the fourth Respondent and the name of the mother has been given as fifth Respondent.

3. It is case of the Petitioner that when the children were born, the fourth Respondent influenced the hospital authorities to get the children's Birth Certificates including the fourth and fifth Respondents as their parents. The first child was born in Booma Nursing Home at Madurai, sixth Respondent herein. The second child was born in Sri Lingammal Nursing Home at Theni, seventh Respondent herein. The third child was born in Velammal Medical College and Hospital at Madurai, eighth Respondent herein.

4. It is the contention of the learned Counsel for the Petitioner that the three children were ill-treated by the the fifth Respondent. When the



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Petitioner objected to the fourth Respondent, he objected to the Petitioner stating that he will do whatever, even killing the children. He threatened her that if she comes out of that relationship, he will kill her also. Therefore, she approached this Court by filing this Writ Petition seeking Writ of Mandamus against Respondents 1 to 3. The first Respondent is the District Collector of Madurai District. The second Respondent is the Superintendent of Police of Theni District. The third Respondent is the Inspector of Police of Usilampatti Taluk Police Station.

5. The learned Government Advocate (Crl. Side) would submit that the complaint of the Petitioner was not received. The Petitioner had filed false affidavit as though she had given representation to the Official Respondents and the Official Respondents had not taken any steps to retrieve the children from the custody of the fourth and fifth Respondents. The learned Government Advocate (Crl. Side) also pointed out the fact that the date of representation annexed in the typed set of paper contained 29.11.2023, but, the postal receipt annexed therewith contained 06.01.2024.



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6. When the learned Counsel for the Petitioner commenced his arguments regarding the custody of the children, this Court had raised query, why the Petitioner had not approached the Family Court or the Civil Court for custody of the children regarding the matrimonial dispute between the Petitioner and the fourth Respondent. He was unable to answer to it. This Court had raised another query regarding the custody of the children, why Habeas Corpus Petition was not filed before the appropriate Division Bench of this Court. To this also, he was also unable to answer. He stated only that the parties are private parties and therefore, the Petitioner did not want to file the Habeas Corpus Petition.

7. Under those circumstances, in this Writ Petition, this Court cannot order anything as the Birth Certificates enclosed in the typed set of papers, mention the mother's name as Sheeba for the children aged about 7 years, 6 years and 1½ years. Therefore, the Petitioner herself was a party to all the misdeeds alleged to have been committed by the fourth Respondent, for which, this Writ Court cannot order any direction. The subject matter of the dispute has to be resolved only through the Civil Court.



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WEB COPY 8. Hence, this Writ Petition is dismissed. No cost.

08.03.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
JEN

To :

- 1.The District Collector,
O/o. the District Collector,
Madurai, Madurai District.
- 2.The Superintendent of Police,
O/o. the Superintendent of Police,
Theni, Theni District.
- 3.The Inspector of Police,
Usilampatti Taluk Police Station,
Peraiyur Main Road,
Usilampatti – 625 532.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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