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H.C.P.No.3212 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2025

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.3212 of 2024

J.Sundaram .. Petitioner

v.

1. The Inspector of Police
Manali New Town Police Station
Red Hills, Chennai 600 103

2. S.V.Sujin

3. S.V.Subin .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, directing the 1st respondent to secure the minor child, Master Abner Simson, S/o late Vijin, aged about 4 years, from the illegal custody of the 2nd and 3rd respondents, produce the child before this Hon'ble Court and hand over his custody to the petitioner.

For Petitioner :: Mr.C.Rajakumar

For Respondents :: Mr.R.Muniyapparaj
Additional Public Prosecutor for R1
Mr.K.Newlin Frederick for R2 & R3



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ORDER

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

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The writ of habeas corpus has been instituted to direct the first respondent to secure the minor child, Abner Simson, S/o late Vijin, aged about 4 years from the custody of the respondents 2 & 3. The petitioner is the maternal grandfather of the minor child. The minor child lost his parents, both father and mother, in a road accident. Now the boy is with the custody of the wife of the second respondent and the third respondent is living in a joint family. The second respondent is working in abroad. His wife is residing in Door No.91-A, Casa Oasis, Madhavasseri, Parasuvaikkal, Neyyatrunkara, Trivandrum District. She is taking care of the minor child and her son. They are capable of providing education and other facilities to the minor child. The child is more attached with the wife of the second respondent. The petitioner and his wife would submit that they are capable of providing better education and they will take care of the child, since they are the maternal grandparents. The child at this age is unable to express its choice or emotions. However, we find that the child is presently attached with the wife of the second respondent and therefore we are not inclined to shift the custody of the child. The wife of the second respondent made an



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assurance that she will treat the child as her own child and provide all facilities and better education to him. The properties and service benefits of the late father of the child must be kept in the name of the child till he attains the age of majority. The visitation rights of the petitioner and his wife at no point of time be refused by the respondents 2 & 3. The grand parents are free to spend time with the child whenever they visit the place of child's residence. The respondents 2 & 3 and the wife of the second respondent undertake that they will not disturb the petitioner and his wife visiting the child at any time in their residence. It is also made clear that the respondents 2 & 3 shall take utmost care since the child lost both his parents. Regarding appointment of guardianship, the parties are at liberty to approach the competent Court of law. With these observations, the habeas corpus petition stands disposed of.

Index : yes

(S.M.S.,J.)

(M.J.R.,J.)

Neutral citation : yes/no

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2. The Public Prosecutor
High Court, Madras



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S.M.SUBRAMANIAM,J.

AND

M.JOTHIRAMAN,J.

SS

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