



HCP.No.2548 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.2548 of 2025

Vinitha

W/o.Elangovan

... Petitioner

Versus

The State represented by its :

1. The Commissioner of Police,
Office of the Police Commissioner,
Salem City, Salem – 636 002.
2. The Inspector of Police,
Veeranam Police Station,



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Salem District.

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3. Mr.Elangovan

... Respondents

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus, to produce the minor child namely Thiresh S/o.Elangovan, the third respondent aged about 1 ½ years, before this Court and thereafter to hand over the custody of the minor child to the petitioner, who is the biological and lawful mother.

For Petitioner : Mr.D.Mario Johnson

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor
assisted by Mr.M.Karthikeyan
for R1 and R2

ORDER

(Order of the Court was made by P.VELMURUGAN J.)

This Writ of Habeas Corpus Petition has been filed seeking a direction to the respondents-Police to produce the minor child Thiresh,



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S/o.Elangovan, aged 1 ½ years before this Court and to handover the custody of the minor child to the petitioner/mother.

2. According to the petitioner, she married one Elangovan, the third respondent herein and they have a minor child Thiresh, aged 1 ½ years. Owing to issues arising out of their marital dispute, the third respondent forcibly took the custody of the minor child and drove the petitioner out of the house, later leaving the child in the care of his parents. The petitioner, being the biological mother of the 1 ½ year old child, lodged a complaint on 18.11.2025 before the second respondent-Police, which was assigned C.S.R.No.635 of 2025, but no action was taken. She has also submitted a representation on 24.11.2025 to the first respondent Police. As no effective steps were taken till date, she has filed the present petition seeking custody of the minor child.



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3. Heard both sides and perused the materials available on record.

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4. A reading of the affidavit filed in support of this petition shows that the petitioner and the third respondent are the biological parents and natural guardians of the minor child, Thiresh. Any dispute between spouses regarding their marital life or the custody of their child must be adjudicated before the Family Court or other competent Court. Adequate remedies are available under the Guardians and Wards Act, 1890 and the Hindu Marriage Act, 1955. Hence, the Writ court has no jurisdiction to interfere in such custody disputes arising between natural guardians.

5. In these circumstances, this Court is not inclined to interfere with the dispute between the spouses regarding the custody of the minor child Thiresh, and the parties are at liberty to work out their remedies before the competent Court in the manner known to law. Accordingly, the Habeas



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Corpus Petition is dismissed.

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[P.V.,J.] [M.J.R.,J.]

05.12.2025

Index: Yes/No

Neutral Citation: Yes/No

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To

1. The Commissioner of Police,
Office of the Police Commissioner,
Salem City, Salem – 636 002.
2. The Inspector of Police,
Veeranam Police Station,
Salem District.
3. The Public Prosecutor
High Court, Madras.



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