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W.P.(MD)NO.31270 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.31270 of 2025

Sajini

... Petitioner

Vs.

1. The District Collector,
Collectorate, Nagercoil,
Kanyakumari District- 629 001.

2. The Chairman,
Child Welfare Committee,
2nd Floor, Collectorate,
Nagercoil,
Kanyakumari District – 629 001.

3. The Inspector of Police,
Karungal police station,
Kanyakumari District.

4. Kingsly Gilbert

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to secure the petitioner's minor children and hand over the custody of them to the petitioner within the time stipulated by this Court.



For Petitioner : Mr.S.Louis
For R-1 & R-2 : Mr.B.Ramanathan,
Additional Government Pleader.
For R-3 : Mr.A.Albert James,
Government Advocate.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 and 2 and the learned Government Advocate appearing for the third respondent.

2.Issuance of notice to the fourth respondent is dispensed with.

3.The writ petitioner got married to the fourth respondent. Three children were born through the wedlock. The petitioner herself concedes that the children were brutally beaten up by the fourth respondent. When complaint was lodged through Child Helpline, the second respondent swung into action and rescued all the three children. The children are aged about seven years, three years and eight months



respectively. The elder children are boys while the last child is a girl.

This writ petition has been filed for directing the authorities to hand over the custody of the children to the writ petitioner.

4. Notice was ordered. Ms.S.K.Simi, Member, Child Welfare Committee, Kanyakumari District and Ms.Kesava Sree Vardhini, Member, Child Welfare Committee, Kanyakumari District are present in person. They produced photographs of the three children. It can be seen therefrom that the children had been brutally beaten up. Rope marks are visible. The children must have been subjected to a horrible physical abuse. The petitioner who is the mother of the children submits that the consequences of the acts committed by her husband should not fall on her. She claims that she was helpless when the children were beaten. She states that she is no longer with the husband and therefore, custody can be restored to her.

5. But I am not in a position to conclude that the interests of the children will be better served by handing them over to the petitioner. Section 37 of the Juvenile Justice(Care and Protection of Children) Act 2015 states that the Child Welfare Committee can pass an order for restoration of the child to parents. But before passing such an



order, the Committee must take into consideration the social investigation report and also the child's wishes in case the child is sufficiently mature to take a view. In normal circumstances, this exercise must be undergone. The writ court will not be justified in straightaway intervening and by bypassing the Child Welfare Committee. The Committee will take a call in the matter by taking into account all the relevant considerations. It will bear in mind the paramount interest of the child. It is always open to the aggrieved parent to move the writ court if he or she is aggrieved by the decision of the Committee. An enquiry must be held in the first instance to decide whether the custody of the child has to be restored to the parent.

6. Without holding such enquiry, no conclusion can be arrived at. I, therefore, relegate the petitioner to go before the second respondent. The second respondent will take a call in the matter. I decline to issue any positive direction. This writ petition stands dismissed. No costs.

11.11.2025

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU/skm



To:

1. The District Collector, Collectorate,
Nagercoil, Kanyakumari District- 629 001.
2. The Chairman, Child Welfare Committee,
2nd Floor, Collectorate,
Nagercoil, Kanyakumari District – 629 001.
3. The Inspector of Police,
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G.R.SWAMINATHAN,J.

PMU/skm

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