



WEB COPY

H.C.P.No.240 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2026

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THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No. 240 of 2026

V.Mathivathani
W/o.Thirumal Kumar

..Petitioner(s)

Vs

1. The Superintendent of Police,
O/o.The Superintendent of Police,
Erode District.
2. The Inspector of Police,
Karungalpalayam Police Station,
Erode District.
3. The Inspector of Police,
All Women Police Station,
Erode District.
4. Thirumal Kumar
S/o.Veerabathiran

..Respondent(s)

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus, directing the 1st and 2nd respondents to produce the petitioner's minor son T.M.Dheekshithan, S/o.Thirumal Kumar, aged 2 ½ years under the illegal custody of the 4th respondent before this Court and hand over the minor to the petitioner herein.



For Petitioner(s) : Mr.Munuraj G.

For Respondent(s): Mr.A.Damodaran
Additional Public Prosecutor
assisted by Mr.M.Karthikeyan
for R1 to R3

ORDER

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

The Writ of Habeas Corpus petition has been filed seeking a direction to respondents 1 and 2 to produce the petitioner's minor son T.M.Dheekshithan, S/o.Thirumal Kumar, aged about 2 ½ years, under the illegal custody of 4th respondent before this Court and hand over the minor to the petitioner herein.

2. The learned counsel for the petitioner submitted that the petitioner is the biological mother of the minor child T.M.Dheekshithan, aged about 2 ½ years. He contended that the fourth respondent-husband, owing to marital discord, unlawfully removed the minor child from the petitioner's custody on 25.01.2026 without her consent and that the petitioner has been denied visitation rights thereafter. It is further stated that despite making diligent efforts, the petitioner has been unable to ascertain the whereabouts of the child. Such removal amounts to illegal detention, warranting the invocation of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.



3. The learned counsel for the petitioner further submitted that the petitioner apprehends danger to the life and safety of the minor child, as the fourth respondent is a habitual drunkard. Though complaints were lodged before the respondents-Police, no effective steps have been taken to secure the minor child. Therefore, in the paramount interest and welfare of the minor, this Court may be pleased to direct production of the minor child and hand over his custody to the petitioner/mother.

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

5. A perusal of the affidavit filed in support of this petition reveals that the petitioner and the fourth respondent are the biological parents and natural guardians of the minor child, T.M.Dheekshithan. It is well settled that custody disputes between parents do not ordinarily give rise to a case of illegal detention, particularly when the minor is in the custody of one of the natural guardians. In the present case, the minor child is admittedly in the custody of the fourth respondent-father, who is a natural guardian, and such custody cannot be construed as illegal detention, so as to warrant interference under Article 226 of the Constitution of India. Further, disputes relating to custody and guardianship of a minor are required to be adjudicated, on the paramount welfare of child, after recording the evidence and considering rival claims,



which exercise cannot be undertaken in summary proceedings under Article 226 of Constitution of India. The petitioner has adequate and efficacious statutory remedies under the Guardians and Wards Act, 1890 and the Hindu Minority and Guardianship Act, 1956, before the competent Civil Court.

6. In the aforesaid circumstances, this Court is of the considered opinion that the present Habeas Corpus Petition is not maintainable, as it seeks to invoke the writ jurisdiction to adjudicate a custody dispute between natural guardians. Hence, this Court is not inclined to interfere by exercising its extraordinary jurisdiction under Article 226 of the Constitution of India.

7. Accordingly, the Habeas Corpus Petition is dismissed. However, the parties are at liberty to work out their remedies before the competent civil Court in the manner known to law.

(P.V.,J.) (M.J.R.,J.)
09.02.2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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O/o.The Superintendent of Police,
Erode District.
2. The Inspector of Police,
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3. The Inspector of Police,
All Women Police Station,
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4. The Public Prosecutor,
High Court, Madras.



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**P.VELMURUGAN, J.
AND
M.JOTHIRAMAN, J.**

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