

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 20TH DAY OF MAY 2008

PRESENT

THE HON'BLE MR. JUSTICE RAM MOHAN REDDY

AND

THE HON'BLE MR. JUSTICE JAWAD RAHIM

WRIT PETITION No. 65 OF 2008 (HC)

BETWEEN :

**HUCHAPPA, S/O. MARIYAPPA CHALAWADI
AGE 65 YEARS, OCC : COOLIE
R/AT HONAGANALLI, TALUK : BIJAPURA.**

... PETITIONER

(BY SRI. MAHESH R UPPIN, ADV)

AND :

- 1 STATE OF KARNATAKA
THROUGH POLICE SUB-INSPECTOR
BAGALESHWARA POLICE STATION
BIJAPURA, BY S P P HIGH COURT OF
KARNATAKA.**
- 2 SUPERINTENDENT OF POLICE
BIJAPURA.**
- 3 GULAWWA, W/O. MALLAPPA CHALAWADI
AGE : 65 YEARS, OCC : HOUSEHOLD WORK
R/AT NEAR CIRCLE,**

be

BEHIND RAM LAXMAN TEMPLE
ALLIMATTI.

- 4 RENAKAWWA, D/O. MALLAPPA CHALAWADI
AGE : 40 YEARS, OCC : SERVICE
R/AT. NEAR CIRCLE, BEHIND RAM LAXMAN
TEMPLE, ALLIMATTI.

... RESPONDENTS

(BY SRI. RAMESH KUMAR, HCGP FOR R1 & 2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF HABEAS CORPUS DIRECTING THE RESPONDENTS NO.1 AND 2 TO PRODUCE THE MINOR CHILD SARITHA DAUGHTER OF BASAPPA YELLAPPA CHALAWADI OF HONAGANAHALLI, BIJAPURA TALUK AND DISTRICT, BEFORE THIS HON'BLE COURT AND HAND OVER THE CUSTODY OF THE SAME TO THE PETITIONER.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, JUSTICE RAM MOHAN REDDY MADE THE FOLLOWING:

ORDER

The petitioner claiming to be the grand father of the minor Saritha, is said to have been appointed as the guardian of the said minor, by order dated 5th August, 2004 in G & W case No.1/2004 of the

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Judge, Family Court, Bijapur, Annexure A. Thereafterwards, the petitioner invoking Sec.25 of the Guardian and Wards Act filed a petition numbered as G & W 5/2005 before the Judge, Family Court at Bijapur, for a direction to respondents 3 and 4 to deliver the custody of the minor child which when objected to, the Family Court, by order dated 10th April, 2008, dismissed the petition as not maintainable, observing that it is open to the petitioner to approach the competent executive officer or this court by way of a writ to secure the custody of the child. Hence, this petition for a writ in the nature of Habeas Corpus directing respondents 1 to 3, State and Superintendent of Police, Bijapur to produce the minor child Saritha and for custody.

2. The relief sought for in this petition is one which cannot be granted merely because a Family Court made an observation that it was open to the

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petitioner to approach this court. If in law the petitioner is aggrieved by the order dated 10th April, 2008 in C & W 5/06, it is open for the petitioner to question the same in an appropriate proceeding before a competent court of law and not to invoke the writ jurisdiction for the relief as noticed supra.

This petition is accordingly disposed off.

Sd/-
Judge

Sd/-
Judge

csq