

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.36933 of 2005

and

W.M.P.No.39578 of 2005

R.Thangavelu

... Petitioner

vs.

The Superintendent of Police,
Coimbatore District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the respondent in connection with the impugned order of recovery issued by the respondent in D.O.No.3536/2005 Na.Ka.No.2/34001/99 dated 17.08.2005.

For Petitioner : Mr. Abdur Rahman
For Mr.M.Muthappan
For Respondent : Mr.M.Manigopi
Govt. Advocate

O R D E R

The Writ Petition has been filed to quash the impugned order of recovery issued by the respondent in D.O.No.3536/2005 Na.Ka.No.2/34001/99 dated 17.08.2005, by which penal rent totalling Rs.35,633/- for overstay in the Police Quarters was ordered to be recovered in 17 instalments.

2. It is the case of the petitioner that he was directly recruited as Grade-II Police Constable on 10.11.1981 in Madurai District and he was promoted as Grade-I Constable on 19.02.1983 and thereafter, as Head Constable in 1998. It is the further case of the petitioner that on account of escape of an accused from his custody during escort, he was suspended from service and subsequently, based on the Tribunal's order, he was reinstated and posted in Ramnad District and he joined duty on 16.10.2002. Since he was not allotted any quarters and his children were studying in Coimbatore District, he vacated the quarters only on 29.05.2004. It is also the case of the petitioner that though he had vacated the quarters immediately on receipt of notice in May, 2004, surprisingly, he was imposed

the penal rent for his stay beyond the prescribed time. Challenging the said recovery, the petitioner is before this Court.

3. In the counter, the respondent has stated that the petitioner, while serving in Coimbatore District, was suspended on 11.04.2001 in respect of a criminal case and thereafter, his suspension was revoked and permitted to join duty on 06.07.2001 and transferred to Ramnad District on public grounds on 22.10.2001. It was stated in the counter that he was allotted a quarters in Podanur Police Quarters No.E-10 on 10.07.2007 and even after his transfer to Ramnad District, he continued to stay in the quarters without obtaining prior permission from his Superior Officer and thereafter, action has been taken to recover the penal rent as per guidelines issued in G.O.Ms.No.568 Home (Pol) 10 Department dated 31.05.2000 from 22.10.2001, viz., the date on which he was relieved from Coimbatore District. It was further stated that recovery was ordered in consonance with the guidelines issued by the Government and therefore, there is no arbitrariness in the order of recovery and the Writ Petition is liable to be dismissed.

4. Learned counsel for the petitioner has submitted that though the petitioner occupied the quarters till he was allotted a quarters at Ramnad District, the rent was duly deducted from his salary at Coimbatore and therefore, the charging of triple the time rent, namely, penal rent cannot be acceptable. He has further submitted that since the petitioner's children were studying in Coimbatore, he was unable to shift his residence immediately and he duly vacated the quarters on 29.05.2004 on due intimation.

5. Learned Government Advocate appearing for the respondent contended that in this case, the petitioner obtained an order of interim stay of recovery on condition that he should deposit Rs.15,000/- within three weeks, failing which stay granted would stand automatically vacated and the petitioner has so far not complied with the condition of deposit. He further contended that the petitioner was placed under suspension for the escape of one of the accused from his custody and pursuant to the order of the Tribunal, he was reinstated and transferred to Ramnad District. He was in Police quarters in the original place without vacating the premises and he was asked to pay the rent for his extended period of occupation. He also contended that since the petitioner vacated the quarters long after his transfer, recovery was initiated against him and an order was passed against the petitioner.

6. Heard both sides and perused the material documents available on record.

7. Once the petitioner was relieved and transferred from one place to another place, the petitioner has no right to continue in the said place, unless there is a specific order by the Authority for continuing in the quarters. I find much force in the contention raised by the respondent that the interim order passed by this Court as early as on 16.11.2005 has not been complied with and therefore, there is every justification on the part of the respondent in ordering recovery of penal rent, which cannot be interfered with by this Court.

8. Hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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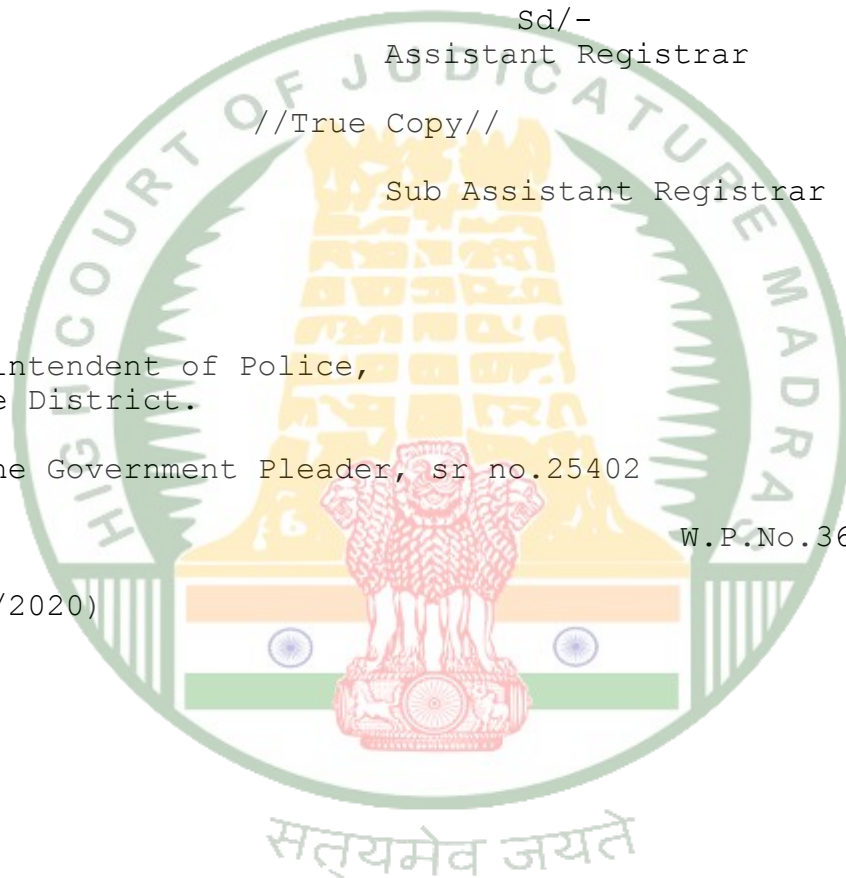
The Superintendent of Police,
Coimbatore District.

+1cc to The Government Pleader, sr no.25402

W.P.No.36933 of 2005

CP (CO)

RMP (02/12/2020)



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