



W.P(MD)No.15633 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15633 of 2020

and

W.M.P.(MD)No.13118 of 2020

J.Kamu Dharma Raja

... Petitioner

Vs.

1.The Commissioner of Police,
1/165, Alagar Kovil Main Road,
K.K. Nagar, Madurai – 625 002.

2.The Assistant Commissioner of Police,
Intelligence Section,
Madurai – 625 002.

3.The Inspector of Police,
B3-Police Station,
Theppakulam,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order dated 30.09.2020 vide Na.Ka.No.D2(3)/638/54717/2020 and set aside the same as illegal consequently direct the respondents to sanction the settlement to be executed by the mother of the petitioner within the period of time as framed by this Court.



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For Petitioner : Mr.K.Muthu Ganesa Pandian

For Respondents : Mr.A.K.Manikkam,
Spl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is working as Grade-I Police Constable. His mother/Valarmathi wanted to execute a settlement deed in favour of the writ petitioner. The property proposed to be conveyed was acquired by the petitioner's mother wayback on 12.05.1993. The petitioner wrote to his departmental superior seeking permission to go ahead with the said transaction. By the impugned memorandum 30.09.2020, the petitioner was informed that his brother Mr.Sathishkumar has lodged strong objection and that there is no scope for granting permission for acquiring the property in question by way of gift. The petitioner's application was also returned along with relevant documents. Challenging the same, the present writ petition has been filed.

3.The petitioner is a member of Tamil Nadu Police Subordinate Service. He is governed by Tamil Nadu Police Conduct Rules. Rule 9(1)(a) reads as follows:-



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“Rule 9. Movable, immovable and valuable property:

(1)(a) No Police officer shall except after notice to the prescribed authority acquire or dispose of any immovable property by lease, mortgage purchase, sale, gift, exchange or otherwise either in his own name or in the name of any member of his family:”

4.The aforesaid rule merely contemplates issuance of notice before acquisition of the property. In this case, the petitioner's mother intended to execute a gift deed in favour of the writ petitioner. The petitioner was not required to secure any permission. In any event, being a member of the unformed force, he probably out of politeness and courtesy employed the expression “permission”. In my view, the impugned communication need not have been challenged. Having informed the prescribed authority about the proposed settlement, the petitioner was not obliged to do anything more. The impugned communication merely informs the petitioner that there is no scope for granting permission. The impugned memorandum need not be set aside. The petitioner is at liberty to go ahead with the transaction in question. His mother can very well execute settlement deed in favour of the writ petitioner in respect of the said property.



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5. With the aforesaid clarification, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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