

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.8025/2015 & M.P.No.1 of 2015

Annai Mamamaghizh Mandram
rep.by its Secretary Mr.A.Kaspar

... Petitioner

Vs.

1. The Assistant Commissioner of Police
Washermenpet Range, Old
Washermenpet, Chennai 600 021.

2. The Inspector of Police [L&O]
H3 Police Station, Tondiarpet,
Chennai 600 081.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from interfering with the activities of the petitioner-association and also from harassing the members, guests or the management.

For Petitioner : Mr.G.Mohanakrishnan

For Respondents : Mr.R.Vijayakumar, AGP

O R D E R

Heard Mr.G.Mohanakrishnan, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader accepting notice for the respondents and with their consent, the writ petition itself is disposed of at the admission stage itself.

2.The grievance of the petitioner Annai Mamamaghizh Mandram is about the constant interference by the respondent Police under the guise of inspecting the premises. The petitioner would state that their activities are lawful.

3.The learned counsel appearing for the petitioner submits that an identical issue arose for consideration in the case of S.R.SPORTS AND RECREATION CLUB REP. BY ITS PRESIDENT v. THE DIRECTOR GENERAL OF POLICE AND ORS in M.P.No.1 of 2013 in W.P.No.30834 of 2013 and this Court after taking note of the earlier directions issued, disposed of the Writ Petition by order dated 27.6.2014. The said order reads as follows:

"This Petition has been filed by the writ petitioner praying for interim injunction restraining the respondents and their men, agents, servants from interfering with the services of the petitioner Club in any manner till the disposal of the writ petition.

2.Learned counsel appearing for the petitioner made reliance upon the directions issued by this Court in W.P.No.2972 of 2012 dated 5.3.2012, which is extracted hereunder:

'11. Therefore, in the light of the aforesaid facts and law, I am inclined to follow the earlier judgment dated 04.11.2011 made in W.P.No.21620 of 2011 and dispose of this writ petition with the following conditions:

- a)The petitioner association shall not indulge in any illegal activity other than playing Rummy (13 cards) with stakes by its members and guests;
- b)If there is any evidence of gambling in some other way, the respondent police have a right to enter the premises of the petitioner's association, inspect and take further action as per law;
- c)The respondent police are also advised not to disturb the petitioner association frequently under the guise of inspection as it would disturb the peace harmony of the petitioner association.
- d)The petitioner and the members of the petitioner Club are entitled to carry on lawful activities within their premises and there should not be any interference from the police authorities, so long as their activities are not in violation of the provisions of the Public Gambling Act, 1867/Tamil Nadu Gaming Act, 1930;
- e)In the normal circumstances, there should be no interference in the lawful functioning of the Clubs, by the Police. It is not permissible for the police to enter the Club premises as a

- routine measure, so long as the Clubs are functioning within the frame work of law;
- f) If the police authorities have specific information or reasonable doubt that the activities carried on by the Club or its members are not in accordance with law or they indulge in unlawful activities, in violation of the provisions of the Public Gambling Act, 1867/Tamil Nadu Gaming Act, 1930 or any other enactment, it would be open to them, after recording reasons in the General Diary maintained in the Police Station, to proceed to enter the Club premises, conduct investigation, interrogate those who involve themselves in such activities and take appropriate action on merits and as per law;
 - g) While exercising the powers conferred on the Police authorities, they should follow the mandatory provision as contained in Section 5 of the Tamil Nadu Gaming Act, 1930 / Public Gambling Act, 1867;
 - h) It is always open to the Club or its members to challenge the action taken by the Police, if it is not in accordance with law;
 - i) In case the Police authorities are of the opinion that a situation has arisen to suspend the operation of the Club in exercise of the powers conferred, they have to issue an order in writing. When there is no authority to the Police to issue an order of suspension orally, they are not entitled to pass such oral orders; and
 - j) Before passing orders for the purpose of closure of the Club, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The Club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given.

12. In the result, the writ petition is disposed of in the above terms. No cost.'

3. Learned Government Advocate appearing for the respondents based upon the counter affidavit submitted that merely rental agreement was entered into by the writ petitioner and the writ petitioner is yet to take possession of the property, which fact is disputed by the

writ petitioner as well as the impleaded respondent C.Balakrishnan.

4.However, considering the above said decision dated 5.3.2012 made in W.P.No.2972 of 2012 and the facts and circumstances of the case, there shall be an interim order of status quo. It is made clear that the conditions imposed by this Court in W.P.No.2972 of 2012 dated 5.3.2012 and the directions issued therein are applicable to the present case as well.

The writ petition is directed to be listed for hearing in the first week of October, 2014."

5.In the light of the above decision and subject to the conditions laid down by this Court in the earlier decisions, the Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1. The Assistant Commissioner of Police
Washermenpet Range, Old
Washermenpet, Chennai 600 021.
2. The Inspector of Police [L&O]
H3 Police Station, Tondiarpet,
Chennai 600 081.

+lcc to Mr.G.Mohanakrishnan, Advocate, S.R.No.16246
+lcc to the Government Pleader, S.R.No.16337

VD(CO)
CA(30/03/2015)

W.P. No.8025/2015