



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALAW.P.(MD)No.11029 of 2016

Vairam Recreation Club,
Rep. by its Secretary A.M.Kamaldeen,
S/o.Abdul Muthalif,
D.No.2/138, Indira Nagar,
Oomachikulam, Madurai District.

... Petitioner

-vs-

1. The Superintendent of Police,
Madurai District, Madurai.

2. The Inspector of Police,
Oomachikulam Police Station,
Oomachikulam, Madurai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, forbearing the respondents from interfering with the lawful activity of playing Rummy (13 cards) by the members of the petitioner Association.

For Petitioner : Mr.K.Gokul
For Respondents: Mr.D.Muruganandam
Addl. Govt. Pleader

O R D E R

The writ petition has been filed for issuance of a Writ of Mandamus, forbearing the respondents from interfering with the lawful activity of playing Rummy (13 cards) by the members of the petitioner club.

2. Heard the learned counsel for the petitioner and learned Additional Government Pleader and perused the materials available on record.

3. Learned counsel for the petitioner would submit that the petitioner club is registered under the Societies Registration Act having Regn.No.46 of 2016 on 11.05.2016 on the file of the Registrar of Societies, Madurai North. The petitioner club is formed for the purpose of carrying on the activities like public welfare schemes, free medical aid, free legal aid, free welfare schemes to physically challenged persons, besides allowing its members to play games (both indoor and outdoor games) like Volley Ball, Badminton, Hockey, Kabadi etc., and also chess, carom board, cards, table tennis etc; that an exception has been made in Section 49, wherein the provisions of Section 42 to 48 of the Act made inapplicable to games of mere skill and one such game of skill is Rummy.



3.1. It is submitted that the members of petitioner association are not allowed to play "Mangatha" or "Ulle Veliye" inside the premises, which is evident from the CCTV camera installed inside the premises. While that being so, the police personnel attached to the respondents are frequently visiting the petitioner association unnecessarily under the guise of inspection and interfering with the activities of its members.

3.2. Learned counsel for the petitioner, by relying upon a decision of the Hon'ble Division Bench of this Court made in The Director General of Police and 3 others vs. Mahalakshmi Cultural Association, reported in [2012 (2) CTC 484], would submit that in similar circumstances in the above said case, this Court allowed the respondent Association therein to run their club with certain conditions.

4. The learned Additional Government Pleader has filed a counter affidavit, stating that it has not been mentioned in the affidavit whether any permission or license was obtained for running such a venture from the competent authorities; that the petitioner club wants to conduct the club for gambling activities only; that 2nd respondent made a spot inspection in the club of the petitioner, during which, it was found that in an around the club, there are 50 houses situated and one child welfare centre for Madurai South Taluk is situated adjacent to the club; that cases in Crime Nos.70/2016 & 16/2016 under Sections 8 & 9 of Public Gambling Act, 1867, were also registered as against similarly placed clubs in that area; that the petitioner is running the association without licence to run such recreation club; that the petitioner and his Association members were not at all harassed by the 2nd respondent, except by following due process of law and that on prior intelligence that gambling is going on in the petitioner's club, the 2nd respondent went to the spot, traced out all the gambling activities and registered a case. Therefore, it is prayed that the petition is liable to be dismissed in limine.

4a. Learned counsel for the petitioner submitted that license fee has been paid along with the application for license and it is for the respondent police to grant licence.

5. Even though several allegations have been made in the counter, there are no materials produced on the side of the respondents to prove the same. Therefore, taking into consideration the fact that the Hon'ble Division Bench of this Court, in the similar set of facts, in the case of The Director General of Police and 3 others vs. Mahalakshmi Cultural Association (supra), allowed the Association therein to continue their activities by imposing certain conditions, which has also been followed by a Single Judge of this Court in the case of Royal Recreation Club, Pulvoipatti, Virudhunagar District vs. The Superintendent of Police, Virudhunagar and another [W.P.(MD) No.6442 of 2015] decided on 08.09.2015, this Writ Petition is disposed of on similar lines with the following conditions:

i) The petitioner association shall not indulge in any activity by allowing its members or the guests to play rummy (13 cards) with stakes and make profit or gain;



ii) The Police are entitled to take action in the event of any illegal activity being carried on in the premises of the petitioner association;

iii) The police shall not disturb the petitioner association frequently under the guise of inspection without there being any reliable information as to the illegal activities of the petitioner association or its members or the guests. No costs.

Sd/
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To:

1. The Superintendent of Police,
Madurai District, Madurai.
2. The Inspector of Police,
Oomachikulam Police Station,
Oomachikulam, Madurai District.

+1CC to M/S.K.Gokul, Advocate, SR.No. 36158
+1CC to the Special Government Pleader, SR.No. 36358

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12.07.2016

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