

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. No.311 of 2019

Winners Manamahil Mandram,
Rep. by its President,
Raja at Arumugam,
No.195/2, Naaliteri Thotta street,
Kondappa Naicken Palayam,
Sathyamangalam Circle,
Erode District - 638 503.

... Petitioner

-vs-

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Gandhi Street, Erode - 638 001.
- 2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Sathyamangalam - 638 402,
Erode.
- 3.The Inspector of Police,
Bangalapudur Police Station,
Erode District - 638 506.
- 4.S.Karuppusamy
- 5.The District Registrar (Admin) and
Registrar of Societies,
District Registrar Office,
Erode District.
[R5-Suo motu impleaded
on 27.08.2019]

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the Respondents from interfering with the day-to-day affairs of the Petitioner club in any way without any reasonable cause at the premises situated at No.195/2, Naaliteri Thootta Street, Kondappa Naicken Palayam, Sathyamangalam Circle, Erode District - 638 503.

For Petitioner : Mr.M.Arunachalam

For Respondents: Mr.J.Purushothaman
Government Advocate for R1 to R3

Mr.K.Balasubramaniam for R4

Mr.T.M.Pappiah,
Special Government Pleader for R5.

O R D E R

Heard Mr. M. Arunachalam, Learned Counsel for the Petitioner, Mr. J. Purushothaman, Learned Government Advocate appearing for the First to Third Respondents, Mr. K. Balasubramaniam appearing for the Fourth Respondent and Mr. T.M. Pappiah, Learned Special Government Pleader (Registration) appearing for the Fifth Respondent.

2. The Writ Petition has been filed to forbear the Respondents from interfering with the day to day affairs of the Club of the Petitioner in any way without any reasonable cause at the premises situated at No. 195/2, Naaliteri Thoota Street, Kondappa Naicken Palayam, Satyamangalam Circle, Erode District - 638 503.

3. Since it is represented by the Learned Counsel for the Petitioner that the Petitioner is a Society registered under the Tamil Nadu Societies Registration Act, 1975, the District Registrar (Administration), Registrar of Societies, District Registrar Office, Erode District is suo motu impleaded as the Fifth Respondent in the Writ Petition.

4. Learned Government Advocate appearing for the First to Third Respondents relying on the decision of this Court in Director General of Police, Chennai -vs- S. Dillibabu (order dated 06.10.2017 in W.A. No. 296 of 2013), submits that the relief sought by the Petitioner in the Writ Petition has the effect of preventing the police personnel from doing their lawful duty, which cannot be granted. The Third Respondent has filed Counter Affidavit dated 21.01.2019 stating that the Club is not functioning and it is found to have been continuously locked. Learned Government Advocate further submits that that the Petitioner has not produced the copy of any license issued under Section 3 of the Tamil Nadu Public Buildings (Licencing) Act, 1965, for running the club in the building and in the absence thereof, they cannot be entitled to the relief sought in the Writ Petition. In this regard, reliance is placed on the decision of the Division Bench of this Court in I. Mohammed Razvi -vs- District Collector, Madurai (order dated

12.12.2017 in W.P. (MD) Nos. 23753, 20775 and 2188 of 2016 and W.P. (MD) No. 12915 of 2017).

5. Having regard to the aforesaid submissions made by the Respondents, during the earlier hearing on 19.08.2019, Learned Counsel for the Petitioner sought time to produce a copy of the requisite licence along with annual statements and audited accounts of the club of the Petitioner from the time of its inception.

6. When the matter is taken for hearing today, Learned Counsel for the Petitioner submits that the Petitioner has not obtained the requisite licence under Section 3 of the Tamil Nadu Public Buildings (Licencing) Act, 1965, for running the club in the building.

7. It is a well settled legal position that a mere contemplation or possibility that a right may be infringed without any legitimate basis for that right, would not give rise to a cause of action. In such circumstances, the question of granting the relief sought by the Petitioner in the Writ Petition does not arise for consideration.

8. In view of the aforesaid legal position coupled with the facts of this case, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner to apply and obtain such licence for running club in the building and leave it open to the Petitioner to work out his remedies in that regard and he has made an endorsement to that effect, which is recorded.

9. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rkp
To

1.The Superintendent of Police,
Office of the Superintendent of Police,
Gandhi Street, Erode - 638 001.

2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Sathyamangalam - 638 402,
Erode.

3.The Inspector of Police,
Bangalapudur Police Station,
Erode District - 638 506.

4.The District Registrar (Admin) and
Registrar of Societies,
District Registrar Office,
Erode District.

+1cc to Government Pleader sr.74633

+1cc to Mr.M.Arunachalam, Advocate sr.73745

W.P.No.311 of 2019

ks(co)
nr 18/09/2019