

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2019

CORAM:

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

W.P. No.10704 of 2019

and

W.M.P. No.11186 of 2019

M.Karthi

... Petitioner

-vs-

1.The Superintendent of Police,
Office of Superintendent of Police,
Salem.

2.The Inspector of Police,
Macheri Taluk Police Station,
Salem District.

3.The District Registrar (Admin),
Registrar of Societies (AIG Cadre),
District Registrar Office,
Salem West, Salem District.
[R3-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 or their men or agents from any manner interfering with the affairs of the Mecheri Sports and Recreation Club, 04.08/40A3, Dasanoor, Mecheri, Mettur Taluk, Salem District or its members including the facilities provided for paying various games including the game of playing Rummy not involving any element of gambling.

For Petitioner : Mr.R.Nalliyappan

For Respondents: Mr.M.Karthikeyan,
Additional Government Pleader
(for R1 and R2)

Mr.T.M.Pappiah,
Special Government Pleader for R3.

O R D E R

Heard Mr. R. Nalliyappan, Learned Counsel for the Petitioner, Mr. M. Karthikeyan, Learned Additional Government Pleader appearing for the First and Second Respondents and Mr. T.M. Pappiah, Learned Special Government Pleader (Registration) appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed to forbear the First and Second Respondents or their men or agents from any manner interfering with the affairs of the Mecheri Sports and Recreation Club, 04.08/40A3, Dasanoor, Mecheri, Mettur Taluk, Salem District or its members including the facilities provided for playing various games including the game of playing Rummy not involving any element of gambling.

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 (AIG Cadre), District Registrar Office, Salem West, Salem District is suo motu impleaded as the Third Respondent in the Writ Petition.

4. Learned Additional Government Pleader appearing for the First and Second 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. That apart, he also submits that, on inspection of the premises of the Petitioner by the Fourth Respondent on 18.08.2019, it has been found that no such club is functioning in the name of Mecheri Sports and Recreation club and work is under process for converting a residential house into a club. He 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 the 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.

-s/d-

Assistant Registrar (CSII)

True Copy

Sub-Assistant Registrar

rkp

To

1. The Superintendent of Police,
Office of Superintendent of Police,
Salem.

2. The Inspector of Police,
Macheri Taluk Police Station,
Salem District.

3.The District Registrar (Admin),
Registrar of Societies (AIG Cadre),
District Registrar Office,
Salem West, Salem District.

+1 cc to Mr.R.Nalliyappan Advocate sr73176
+1 cc to Government Pleader sr74634

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