

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.06.2019

CORAM:

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

W.P. No.17255 of 2019

and

W. M. P. No.16793 of 2019

Five Star Sports and Recreation Club,
Represented by its President,
Thoppapalayam Kattoor,
P.K. Pudur Post, Andhiyur Taluk,
Erode District.

... Petitioner

-vs-

1. The District Collector,
Erode District,
Erode.

2. The Superintendent of Police,
Erode District,
Erode.

3. The Deputy Superintendent of Police,
Bhavani,
Erode District.

4. The Inspector of Police,
Ammapettai Police Station,
Andhiyur,
Erode District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Mandamus, directing the Respondents, their men and subordinates not to interfere with the day to day affairs of the Petitioner's club namely Five Star Sports and Recreation Club more particularly playing the game of rummy and also from harassing the members, guests and the staffs of the club.

For Petitioner : Mr. R. Thamaraiselvan

For Respondents: Mr. M. Karthikeyan
Additional Government Pleader

O R D E R

Heard Mr. R. Thamaraiselvan, Learned Counsel for the Petitioner, Mr. M. Karthikeyan, Learned Additional Government Pleader appearing for the Respondents.

2. The Writ Petition has been filed to direct the Respondents, their men and subordinates not to interfere with the day to day affairs of the club of the Petitioner, viz., Five Star Sports and Recreation Club more particularly playing the game of rummy and also from harassing the members, guests and the staff of the club.

3. Learned Additional Government Pleader appearing for the 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.

4. Learned Additional Government Pleader further submits that that the Petitioner has not produced 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. That apart, the Fourth Respondent has filed Inspection Report dated 27.06.2019 stating as follows:-

"1. There is no club functioning under the name of 'Five Star sports & Recreation Club'.

2. The premises has only aboard showing there is a club functioning there.

3. The premises is having, showing no signs of existence of a recreation and sports club.

4. Construction work is at present going on in the premises.

5. From enquiry it was found that the said premises was now only under construction to be used as a club.

6. There is no board or sign within the premises showing that so and so person is the president, vice-president etc. And there is no register, if at all the club is functioning, to keep track of its members those who are coming in and going out.

7. There is a signs of presence of indoor facilities offering carom, and tables etc. within the premises. The entire premises is not clean due to construction work.

8. During inspection there was no staffs or members inside the premises and only some workers were present who were carrying out construction works.

9. Enquiry was also made in the nearby villages, and they also reiterate that there is no club functioning at the said premises and now only construction work is going on. Moreover, the villagers also objected to functioning of such club if at all it is being established."

6. 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.

7. Accordingly, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

vji/kv

To

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Erode District,
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2. The Superintendent of Police,
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+1cc to Mr.R. Thamaraiselvan, Advocate SR.No.54127

W.P. No.17255 of 2019

BR (CO)
GMY (23/09/2019)



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