

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2019

CORAM:

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

W.P. No.16867 of 2018

and

W.M.P. No.20055 of 2018

Harini Recreation Club,
(Regn. No.220 of 2016)
Represented by its President,
Mr.S.Srinivasan,
"Modern Towers", 4th Floor,
35/23, West Cott Road,
Royapettah, Chennai - 600 014.

... Petitioner

-vs-

- 1.The Commissioner of Police,
Vepery, Chennai - 600 007.
- 2.The Deputy Commissioner of Police,
Triplicane Range, Chennai - 600 005.
- 3.The Assistant Commissioner of Police,
Triplicane Range, Chennai - 600 005.
- 4.The Inspector of Police,
D-2, Anna Salai Police Station,
Chennai - 600 002.
- 5.The District Registrar (Admn),
Registrar of Societies (AIG Cadre),
District Registrar Officer,
Central madras , Chennai.
[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 1 to 4 (Police Officials) from interfering with the smooth functioning of the Petitioner Club at their premises and playing games such as Carom Board, Chess, Table Tennis, Rummy and other lawful activities of the Petitioner Club.

For Petitioner : Mr.S.J.Jagadev

For Respondents : Mr.M.Karthikeyan,
Additional Government Pleader
(for R1 to R4)
Mr.T.M.Pappiah,
Special Government Pleader (for R5)

ORDER

Heard Mr. S.J. Jagadev, Learned Counsel for the Petitioner, Mr. M. Karthikeyan, Learned Additional Government Pleader appearing for the First to Fourth Respondents and Mr. T.M. Pappiah, Learned Special Government Pleader (Registration) appearing for the Fifth 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 to Respondents from interfering with the smooth functioning of the Petitioner Club at its premises and playing games such as Carom Board, Chess, Table Tennis, Rummy and other lawful activities.

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, Central Madras, Chennai is suo motu impleaded as the Fifth Respondent in the Writ Petition.

4. It is informed by the Learned Special Government Pleader (Registration) appearing for the Fifth Respondent, on instructions, that the Petitioner has submitted its annual returns for the years 2016-2017 and 2017-2018 and it is yet to file its return pertaining to the period 2018-2019.

5. Learned Additional Government Pleader appearing for the First to Fourth 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 17.08.2019, it has been found that there is no name board and that the building is presently closed and locked and photographs in that regard has been produced in proof thereof. 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).

6. 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.

7. When the matter is taken for hearing today, Learned Counsel for the Petitioner submits that since 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. 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

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Police,
Vepery, Chennai - 600 007.

2.The Deputy Commissioner of Police,
Triplicane Range, Chennai - 600 005.

3.The Assistant Commissioner of Police,
Triplicane Range, Chennai - 600 005.

4.The Inspector of Police,
D-2, Anna Salai Police Station,
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5.The District Registrar (Admn),
Registrar of Societies (AIG Cadre),
District Registrar Officer,
Central madras , Chennai.

+1 cc to The Government Pleader Sr.No.74628

AKM/17.09.19/4P- 7C /

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