

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2019

CORAM:

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

W.P. No.20437 of 2019

D.Loganathan

... Petitioner

-vs-

- 1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
- 2.The Deputy Commissioner of Police,
Chennai.
- 3.The Inspector of Police,
S-5, Pallavaram,
Chennai.
- 4.The District Registrar (Admin) and
Registrar of Societies (AIG Cadre),
Chennai South, Industrial Estate,
Guindy, Chennai.
[R4-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 in any manner interfering with the affairs of the Petitioner's club, SAI Recreation and Sports Club situated at No.2/1, M.K.Main Road, Swamimalai Nagar, Old Pallavaram, Chennai - 600 117, its members including the facilities provided for playing various games including the game of playing rummy not involving any element of gambling.

For Petitioner : Mr.M.Soundar Vijay Arulram

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

Mr.T.M.Pappiah,
Special Government Pleader for R4.

O R D E R

Heard Mr. M. Soundar Vijay Arulram, Learned Counsel for the Petitioner, Mr. J. Purushothaman, Learned Government Advocate appearing for the First to Third Respondents and Mr. T.M. Pappiah, Learned Special Government Pleader (Registration) appearing for the Fourth 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 Respondents from in any manner interfering with the affairs of the Club of the Petitioner situated at No. 2/1, M.K.Main Road, Swamimalai Nagar, Old Pallavaram, Chennai - 600 117, its members including the facilities provided from 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, Chennai South, Industrial Estate, Guindy, Chennai is suo motu impleaded as the Fourth 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 Status Report dated 18.07.2019 stating that during the enquiry on 15.07.2019, it has been found that no such Club is functioning in the name of Sai Recreation Club in the premises mentioned, which is repeatedly found locked for the past six months. 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 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. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner of Police, Greater Chennai, Vepery, Chennai.
- 2.The Deputy Commissioner of Police, Chennai.
- 3.The Inspector of Police, S-5, Pallavaram, Chennai.
- 4.The District Registrar (Admin) and Registrar of Societies (AIG Cadre), District Registrar Office, Chennai South, Industrial Estate, Guindy, Chennai.

+1 cc to The Government Pleader Sr.No.74661

AKM/18.09.19/3P-6C /

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