

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

CORAM

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

W.P. No. 28058 of 2019

M/s. Sigaram Vilayatu Mandram,
Rep. by its Vice President A.R. Nagarajan,
D. No. 42/1, Driver Thottam, Kattupalayam,
Kalingiam (P.O.),
Gobichettipalayam - 638 453. ... Petitioner

-vs-

1. The Superintendent of Police,
Erode District,
Erode.
2. The Deputy Superintendent of Police,
Gobichettipalayam,
Erode District,
Erode.
3. The Inspector of Police,
Gobichettipalayam,
Erode District,
Erode. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the First Respondent from interfering frequently with the affairs of the Petitioner Association under the guise of the Third Respondent as the same would disturb the peace and harmony of the Association.

For Petitioner : Mr. P. Tamilavel

For Respondents : Mr. R. Venkatesh,
Government Advocate

O R D E R

Heard Mr. P. Tamilavel, Learned Counsel for the Petitioner, Mr. R. Venkatesh, Learned Government Advocate appearing for the Respondents 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 Respondent from interfering frequently with the affairs of the Club of the Petitioner through the Third Respondent as the same would disturb the peace and harmony of the Club of the Petitioner.

3. Learned Government Advocate 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 Government Advocate further submits 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 Second Respondent has filed Inspection Report dated 16.10.2019 stating as follows:-

"As per the orders of the Hon'ble High Court of Madras, on 14.10.2019, I, K. Thangavel Deputy Superintendent of Police, Gobichettipalayam inspected the premises, which was located at Driver thottam, Kattupalayam, Kalingiyam village and the premises is an extent of about 52 cents compounded with iron fencing and is laid two Tar sheet shed inside the fencing compound. For the past four months the premises of the shed was locked and none of them is present. The petitioner is not having any valid licence for running the club in the premises. On 3.6.2019 the petitioner allowed to gaming activities in his shed, on information the Inspector of Police, Gobichettipalayam rushed to the premises and found that gambling activities is going on. In this connection one Nagaraj age 53, S/o Ramasamy, Door No. 52, Housing unit, Modachur, Gobichettipalayam, Erode District, 2) Mubarak (60), Ismail, Ramar Extention-3 Vadakku Veethi, Gobichettipalayam, 3) Basha (40), S/o Ismail, 10 Vandipettai, Gobichettipalayam, 4) Alavudeen (40), S/o Jamesha, 10 Bharathi Strret, Vaikal road, Gobichettipalayam, 5) Venkatesh babu

(40), S/o Jayaraman, Jawaharlal Nehru Street, Karatur, Gobichettipalayam were arrested and a case in Gobichettipalayam PS Cr No. 303/2019 U/s 12 of TNG Act was registered and ended in conviction. The premise is surrounded by the Agricultural lands, remote areas and is not a safe place for running a club. Hence the petitioner is not allowed to run a club in the premises."

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. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Superintendent of Police,
Erode District,
Erode.
2. The Deputy Superintendent of Police,
Gobichettipalayam,
Erode District,
Erode.
3. The Inspector of Police,
Gobichettipalayam,
Erode District,
Erode.

+1 cc to M/s.P.Tamilavel, Advocate, S.R.No.87220

+1 cc to the Government Pleader, S.R.No.87377

W.P. No. 28058 of 2019

RP(CO)
SSM(21/10/2019)

16.10.2019