

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

CORAM

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

W.P. No. 28462 of 2019

M/s. Sri Venkateswara Recreational Club,
Represented by its Secretary,
Mr. K. Mamundiraja,
31A/42, Periyar Nagar,
Kamaraj Salai, 3rd Cross Street,
Andiyur Taluk,
Erode District,
Andiyur - 638 501.

... Petitioner

-vs-

1. The Superintendent of Police,
Erode District,
Erode.
2. The Deputy Superintendent of Police,
Bhavani,
Erode District.
3. The Inspector of Police,
Anthiyur Police Station,
Anthiyur,
Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Third Respondent not to disturb the Petitioner club frequently in the guise of inspection and consider the representation dated 16.09.2019.

For Petitioner : Mr. R. Vijaya Khumar

For Respondents: Mr. M. Karthikeyan,
Additional Government Pleader

O R D E R

Heard Mr. R. Vijaya Khumar, Learned Counsel for the Petitioner and Mr. M. Karthikeyan, Learned Additional Government Pleader 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 direct the Third Respondent not to disturb the Club of the Petitioner frequently in the guise of inspection and consider the representation dated 16.09.2019 made by the Petitioner.

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 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. The Third Respondent has filed Inspection Report dated 16.10.2019 stating as follows:-

"2. I submit that in pursuance of the orders of this Honourable Court, my self, along with Sub-Inspectors Mr.Raja and HC 2151 Mr.Selvam inspected the said premises, belonging to the petitioner, Sri Venkateswara Recreational Club, situated at 31 A/42, Periyar Nagar, Kamaraj Salai, 3 Rd Cross Street, on at 09.10.19 at 16.00 hrs.

3. There is no such club functioning under the name of 'Sri Venkateswara Recreational Club at the said address.

4. The premises does not show any signs of existence of recreation and sports club.

5. The said premises was rented to one Murugesan and now the said Murugesan is residing there with this wife and a daughter.

6. There is no signs of carrying on club activities at the said premises.

7. There is no board or sign within the premises showing that Recreational club under the name of Sri Venkateswara Recreational club is running at said premises. Similarly, there is no board showing the particulars about the registration of the club.

8. There is no signs of playing indoor games like carom and table tennis etc. within the premises.

9. Enquiry was also made in the nearby villages and it was confirmed that there is no club functioning at the said premises.

10. My physical verification and enquiry reveal that there is no club functioning at the said premises as on date and that one Murugesan is residing there with his family on mothly rental basis."

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. 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 and he has made an endorsement to that effect, which is recorded.

7. Accordingly, the Writ Petition is dismissed as withdrawn. This would not, however, preclude the entitlement of the Petitioner, on satisfying the prescribed conditions, to apply and obtain necessary licence under the relevant statutory provisions for running the club in accordance with law. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Superintendent of Police,
Erode District,
Erode.
2. The Deputy Superintendent of Police,
Bhavani,
Erode District.
3. The Inspector of Police,
Anthiyur Police Station,
Anthiyur,
Erode District.

W.P. No. 28462 of 2019

A.SK(21/10/2019)