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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

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

W.P. No. 28812 of 2019

M/s. Sri Vinayaga Friends Sports Association,
Represented by its Secretary,
Mr. P. Arjunan,
No. 3/5, 27-A, Dhinnapatty Village,
Kolathur Post,
Mettur Dam- Taluk,
Salem District - 636 303.

... Petitioner

-vs-

1. The Superintendent of Police,
Salem District,
Salem.
2. The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Mettur Dam,
Salem District,
Salem.
3. The Inspector of Police,
Kolathur Police Station,
Mettur Dam,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the Respondents herein from interfering with the peaceful affairs and activities of Sri Vinayaga Sports Association which is situated at No. 3/5 27A, Dhinnapatty Village, Kolathur Post, Mettur Dam, Salem District, pursuant to the Petitioner representation dated 03.09.2019.

For Petitioner : Mr. M. Kalaiyarasan

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



O R D E R

Heard Mr. M. Kalaiyarasan, 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 forbear the Respondents from interfering with the peaceful affairs and activities of Sri Vinayaga Sports Association which is situated at No. 3/5 27A, Dhinnapatty Village, Kolathur Post, Mettur Dam, Salem District, pursuant to the representation dated 03.09.2019 made by the Petitioner.

3. In support of the aforesaid relief claimed, reliance is placed by the Learned Counsel for the Petitioner on the decision of the Learned Judge of this Court in the order dated 05.03.2012 in W.P. No. 2972 of 2012, but the Learned Additional Government Pleader appearing for the Respondents points out that the aforesaid decision has been partly set aside by the Division Bench of this Court in Director General of Police, Chennai -vs- S. Dillibabu (order dated 06.10.2017 in W.A. No. 296 of 2013) following the dictum laid down by the Constitution Bench of the Hon'ble Supreme Court of India in State of Bombay -vs- R.M.D. Chamarbaugwala (AIR 1957 SC 699), in which it has been ruled that such relief cannot be granted which has the effect of preventing the police personnel from doing their lawful duty to ensure that no gambling activities take place in clubs. Learned Additional Government Pleader appearing for the Respondents further submits that necessary licence has to be obtained under Section 3 of the Tamil Nadu Public Buildings (Licensing) Act, 1965, for running club in the building as per the Judgment 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).

4. Having regard to the aforesaid submissions made by the Respondents, the Petitioner was required by order dated 01.10.2019 to produce a copy of such licence and the Respondents were directed to inspect the premises of the Petitioner with reference to the activities mentioned in the affidavit and file report.

5. When the matter is taken up 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



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Public Buildings (Licencing) Act, 1965, for running the club in the aforesaid building. In the report dated 05.11.2019 filed by the Second Respondent, it has been stated that on inspection, it has been found that there is no club of the Petitioner was functioning in the address stated in the Writ Petition.

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. 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.

Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa/vjt

To

1. The Superintendent of Police,
Salem District,
Salem.

2. The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Mettur Dam,
Salem District,
Salem.

3. The Inspector of Police,
Kolathur Police Station,
Mettur Dam,
Salem District.

+1cc to the Government Pleader SR.92466/19

W.P. No. 28812 of 2019

RJI (CO)

CB(07/01/2020)