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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.8135 of 2022

Vellore Enjoy Men's Club
Reg.No.SRG/Vellore/41/2022
No.C-192, Murugan Koil Street,
Filterpet Road,
Vellore Town, Vellore South (Urban)
Vellore Taluk & District,
Rep. by its President
B.Naveen Kumar.

...Petitioner

Vs

- 1.The Superintendent of Police,
Vellore District, Vellore.
2. The Inspector of Police,
Vellore South Police Station,
Vellore District.
3. The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from arbitrarily and high handedly invoking the penal provisions of the Tamil Nadu Gaming (Act III of 1930) to prevent the petitioner's club from peaceful functioning.

For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

Mr.A.Gokulakrishnan, learned Additional Public Prosecutor takes notice on behalf of the respondents.



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2. With the consent of the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents, this writ petition is taken up for final disposal/final hearing at the stage of admission itself.

3. This Writ Petition has been filed for the issuance of a Writ of Mandamus, to forbear the respondents police from preventing the members of the petitioner's Club playing the game of rummy along with Carom Board, Table Tennis, Chess, Bat mitten and Kabadi at Krishna Nagar, Kanniyambodi, Vellore Taluk & District.

4. Heard both sides and perused the materials available on record.

5. The grievance of the petitioner Vellore Enjoy Men's Club, Krishna Nagar, Kanniyambodi, Vellore Taluk & District is about constant interference by the respondents police under the guise of inspecting the premises. The petitioner would state that their activities are lawful.

6. The learned counsel for the petitioner would submit that this Court when an identical issue arose for consideration in the case of S.R.Sports and Recreation Club, Represented by its President Vs The Director General of Police and others in M.P.No.1 of 2013 in W.P.No.30834 of 2013, after taking note of the earlier directions issued, disposed of the writ petition by order dated 27.06.2014. The said order reads as follows:-

"This petition has been filed by the writ petitioner praying for interim injunction restraining the respondents and their men, agents, servants from interfering with the services of the petitioner Club in any manner till the disposal of the writ petition.

2. Learned Counsel appearing for the petitioner made reliance upon the directions issued by this Court in W.P.No.2972 of 2012 dated 05.03.2012, which is extracted hereunder:

'11. Therefore, in the light of the aforesaid facts and law, I am inclined to follow the earlier judgement dated 04.11.2011 made in W.P.No.21620 of 2011 and dispose of this Writ Petition with the following conditions:



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- a) The petitioner association shall not indulge in any illegal activity other than playing Rummy (13 cards) with stakes by its members and guests;
- b) If there is any evidence of gambling in some other way, the respondent police have a right to enter the premises of the petitioner's association, inspect and take action as per law;
- c) The respondent police are also advised not to disturb the petitioner association frequently under the guise of inspection as it would disturb the peace harmony of the petitioner association.
- d) The petitioner and the members of the petitioner Club are entitled to carry on lawful activities within their premises and there should not be any interference from the police authorities, so long as their activities are not in violation of the provisions of the Public Gambling Act, 1867/Tamil Nadu Gaming Act, 1930;
- e) In the normal circumstances, there should be no interference in the lawful functioning of the Clubs, by the Police. It is not permissible for the police to enter the Club premises as a routine measure, so long as the Clubs are functioning within the frame work of law;
- f) If the police authorities have specific information or reasonable doubt that the activities carried on by the Club or its members are not in accordance with law or they indulge in unlawful activities, in violation of the provisions of the Public Gaming Act, 1867/Tamil Nadu Gaming Act, 1930 or any other enactment, it would be open to them, after recording reasons in the General Diary maintained in the Police Station, to proceed to enter the Club Premises, conduct investigation, interrogate those who involve themselves in such activities and take appropriate action on merits and as per law;
- g) While exercising the powers conferred on the police authorities, they should follow the mandatory provision as



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- contained in Section 5 of the Tamil Nadu Gaming Act, 1930/Public Gaming Act, 1867;
- h) It is always open to the Club or its members to challenge the action taken by the police, if it is not in accordance with law;
 - i) In case the Police authorities are of the opinion that a situation has arisen to suspend the operation of the Club in exercise of the powers conferred, they have to issue an order in writing. When there is no authority to the police to issue an order of suspension orally, they are not entitled to pass such oral orders; and
 - j) Before passing orders for the purpose of closure of the Club, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The Club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given.

12. In the result, the writ petition is disposed of in the above terms. No cost."

3. Learned Government Advocate appearing for the respondents based upon the counter affidavit submitted that merely rental agreement was entered into by the writ petitioner and the writ petitioner is yet to take possession of the property, which fact is disputed by the writ petitioner as well as the impleaded respondent C.Balakrishnan.

4. However, considering the above said decision dated 05.03.2012 made in W.P.No.2972 of 2012 and the facts and circumstances for the case, there shall be an interim order of status quo. It is made clear that the conditions imposed by this Court in W.P.No.2972 of 2012 dated 05.03.2012 and the directions issued therein are applicable to the present case as well.



The writ petition is directed to be listed for hearing in the first week of October, 2014."

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7. In the light of the above decision and subject to the conditions laid down by this Court in the earlier decisions, this Writ Petition is disposed of on the above terms with conditions (a) to (j) mentioned above.

8. However, it is made clear that this order would not come in the way of the jurisdictional Police invoking the relevant provisions of the Act and taking action in accordance with law, if the members of the petitioner's Club are found to have indulged in any unlawful or immoral activities. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

2.The Inspector of Police,
Vellore South Police Station,
Vellore District.

3.The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.

4.The Public Prosecutor,
High Court of Madras.

+1 CC to Mr.E.Kannadasan, advocate s 23348

W.P.No.8135 of 2022

SJ(CO)
SP(09/05/2022)