

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.2704 of 2015

and

M.P.No.1 of 2015

N.Kunhumammed

...Petitioner

Vs

1. The Chairman of the District Committee
and Collector of the Nilgiris,
Udhagamandalam.
 2. The District Forest Officer,
Gudalur Division,
Gudalur.
 3. The Executive Engineer (Agri Engineer),
Udhagai,
Nilgiris District.
 4. The Tahsildar,
Gudalur Taluk,
Gudalur, The Nilgiris.
- ...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein in K.Dis.A4/34678/2013, dated 22.08.2014 and quash the same and direct the 1st respondent to grant permission for sale of petitioner's patta land to an extent of 3 Acres in S.No.390/1 and Sub-Divided as 390/1A and 1C situated at Devaka-II Village, Gudalur Taluk, Nilgiris District within the Sub Registration District of Gudalur and Registration District of Nilgiris.

For Petitioner : Mr.K.A.Ramakrishnan

For Respondents: Mrs.Thanga Vadhana Balakrishnan, AGP,
for RR1 to 3
Mr.I.Sathish, AGP, for R4

ORDER

The petitioner is aggrieved against the order of the first respondent dated 22.08.2014 in refusing permission to sell the petitioner's patta land, measuring an extent of 3 Acres in S.No.390/1 and Sub-Divided as 390/1A and 1C situated at Devaka-II Village, Gudalur Taluk, Nilgiris District within the Sub Registration District of Gudalur and Registration District of Nilgiris.

2. Heard both sides.

3. The petitioner claims to be the owner of the subject matter property, which falls under the purview and scope of the Tamil Nadu Preservation of Private Forests Act, 1949. The petitioner wanted to sell the property to a third party. Under the said Act, the owner of any forest, without previous sanction of the District Committee shall not sell, mortgage, lease or otherwise alienate the whole or any portion of the forest, as contemplated under Section 3 of the said Act. Therefore, the permission from the District Committee is required to sell the property. Consequently, the petitioner approached the first respondent and sought for such permission. The said request was rejected by passing the impugned order, only on the reason that the petitioner had sub-divided the land, without the prior permission of the District Committee.

4. Therefore, it is contended by the respondents that since the sub-division was made without permission, the petitioner is not entitled to get clearance from the District Committee for selling the land.

5. I am not able to agree with the above submissions made by the respondents for the simple reason that Section 3 of the Tamil Nadu Preservation of Private Forests Act, 1949 only contemplates such permission only in the event of selling, mortgaging, leasing or otherwise alienating the whole or any portion of the forest and not for sub-dividing the property. Assuming that the property after sub-division, vest in the hands of two different owners, still the respective owner has to get sanction from the District Committee, as contemplated under Section 3, when he contemplates to sell, mortgage, lease or otherwise alienate the whole or any portion of the property.

6. Therefore, when the Act does not require any prior permission for sub-division of the property, consequently, the reason stated in the impugned order for rejecting the request of the petitioner to sell, cannot be sustained. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent to consider

the claim of the petitioner and pass appropriate orders on merits and in accordance with law, more particularly, by following the procedures contemplated under the Tamil Nadu Preservation of Private Forests Act, 1949. Such exercise shall be done by the first respondent, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Chairman of the District Committee
and Collector of the Nilgiris,
Udhagamandalam.
2. The District Forest Officer,
Gudalur Division,
Gudalur.
3. The Executive Engineer (Agri Engineer),
Udhagai,
Nilgiris District.
4. The Tahsildar,
Gudalur Taluk,
Gudalur,
The Nilgiris.

+1cc to Mr.K.A.Ramakrishnan, Advocate, S.R.No. 67000
+1cc to the Special Government Pleader(F), S.R.No. 67059
+1cc to the Government Pleader, S.R.No. 68114

SSD(CO)
GN(30/10/2019)

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