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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.943 of 2022
and W.M.P.Nos.1010 and 1011 of 2022

1. R.Raja
2. R.Prabhu
3. N.Suresh
4. Minor R.Tarun
Aged about 11 yrs
S/o Late N.Ramesh
Represented by Guardian Mr.N.Nellakantan.... Petitioners

-Vs-

1. The District Collector,
Udhagamandalam,
The Nilgiris - 643 001.
2. The Joint Sub-Registrar Office,
Joint I, Udhagamandalam,
The Nilgiris - 643 001. ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to register the Document No.P 68/2020 pending on the file of the Joint Sub-Registrar Office, Joint I, Ootacamund and return the same without insisting on Approval from the Committee constituted under TNPPF Act, 1949.

For Petitioners: Mr.Dinu Prashanth.S
For R1 : Mr.S.Rajesh
Government Advocate
For R2 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents to register the Document No.P 68/2020 pending on the file of the Joint Sub-Registrar Office, Joint I, Ootacamund and return the same without insisting on Approval from the Committee constituted under TNPPF Act, 1949.

2. Heard Mr.Dinu Prashanth.S, learned counsel appearing for the petitioners, Mr.S.Rajesh, learned Government Advocate



appearing for the first respondent and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the second respondent.

3. The land ad-measuring 28.35 acres comprised in various survey numbers situated at Sholur Village, Udthagamandalam, originally belong to T.R.Subramaniam, T.R.Ramachandran and T.R.Ragupathy. They sold out the subject property to the petitioners' predecessors by way of a registered sale deed, dated 29.01.1986 registered vide Document No.74 of 1986. In turn, some extent of the property was sold out in favour of third parties and the sale deeds were duly registered by the second respondent. After demise of the father of the first and second petitioners herein, on the strength of an un-registered Last Will and Testament executed by their father dated 14.10.1998, the petitioners after deliberation and discussions decided to divide the properties jointly belonging to them by metes and bounds between each other.

4. Accordingly, a partition deed was executed among themselves on 04.09.2020 dividing the properties by metes and bounds and presented the partition deed for registration before the second respondent. Upon receipt of the same, the second respondent had kept the document pending without registering and releasing the same under the pretext that he has received a circular from the District Administration prohibiting registration of the document since the subject property notified under the Tamil Nadu Preservation of Private Forest Act, 1949.

5. The learned counsel for the petitioners submitted that the partition deed is not a transfer and therefore there is no alienation of the subject property. The partition is only a division of properties among family members and as such the permission contemplated under Section 3 of the Tamil Nadu Preservation of Private Forest Act, 1949 is not at all required. The provisions under Section 3 of the Tamil Nadu Preservation of Private Forest Act, 1949, (1)(a) says that no owner of any forest land shall, without the previous sanction of the committee, sell, mortgage, lease or otherwise alienate the whole or any portion of the forest land.

6. Therefore, the circular issued by the first respondent pertains to alienations like sale, lease / mortgage and not pertains to partitions within the family members. Admittedly, the petitioners are family members and they decided and agreed to divide the properties jointly belonging to them by metes and bounds in respect of the subject property.

7. By the letter dated 01.11.2021 on the file of the second respondent, directed the petitioners to obtain prior permission from the District Committee to register the



partition deed. Therefore, mere division of the property within the family members by way of a partition deed would not amount to any alienation of the property in favour of third party.

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8. In view of the above, the second respondent is directed to conduct enquiry, after giving an opportunity of hearing to the petitioners and the District Committee, pass orders either to register or reject the same, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the second respondent, while passing the order shall bear in mind the above observations made by this Court.

9. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Udhagamandalam,
The Nilgiris - 643 001.
2. The Joint Sub-Registrar Office,
Joint I, Udhagamandalam,
The Nilgiris - 643 001.

+1 cc to Mr.Dinu Prashanth.S, Advocate Sr.NO.
+1 cc to Government Pleader Sr.NO. 5634,5656

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RK(CO)
A.SK(04.02.2022)