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W.P.No.5731 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.5731 of 2015

Mr.K.Damodaran

... Petitioner

Vs.

1.The Chairman of the District Committee and
the Collector,
O/o. The Collectorate of Nilgris,
Nilgris, Udhagamandalam.

2.The District Forest Officer,
Gudalur Division,
Gudalur, Nilgris,
Udhagamandalam.

3.The Tahsildar,
Gudalur, Nilgris,
Udhagamandalam.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified, to call for the records pertaining to the order passed by the 1st respondent on 13.04.2014 in K.Dis.No. A4/32554/2012 and quash the same and consequently direct the 1st respondent to permit the petitioner for sale of land admeasuring an extent of 4 1/2 cents bearing Patta No.880 in S.No.33/1A/1A2 situated at Gudalur Village, Nilgiris, Udhagamandalam.



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For Petitioner : Mr.B.Leelesh Sundaram

For Respondents : Mr.C.Sathish
Government Advocate

ORDER

This writ petition was filed challenging the order dated 13.04.2014 passed by the 1st respondent and for a consequential direction to the 1st respondent to grant permission to the petitioner for the sale of the subject property.

2.The case of the petitioner is that he purchased the subject property through a registered Sale Deed dated 17.02.2009. The petitioner also obtained patta and electricity connection in his name.

3.The further case of the petitioner is that he got necessary approvals and had put up a construction in the property and was also paying the property tax. The petitioner wanted to dispose of the property and hence, made an application on 31.08.2012, seeking for the permission for the sale of the property. The application was placed before the 1st respondent along with the reports of the Tahsildar, Electricity Department and the District Forest Officer. The 1st respondent on



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considering the application along with the reports given by the relevant authorities, concluded that the application does not deserve acceptance and rejected the same through the impugned order dated 13.04.2014. Aggrieved by the same, the present writ petition was filed before this Court.

4.The 3rd respondent has filed a counter affidavit and the same has been adopted by the 1st respondent. The relevant portion in the counter affidavit which deals with the facts of the case, is extracted hereunder:

3. It is submitted that the Tamilnadu Preservation of Private Forest Act 1949 Tamil Nadu Act XXVII of 1949 was enacted in order to prevent the destruction of Private Forest and interference with customary and prescription rights therein and for certain other purpose. The details of the Villages in Gudalur Division of Nilgiris District and the survey numbers notified under the provisions of the Act had been published in the Nilgiris District Gazettee Notification No.1 dated 15.11.1991. As per the provision of section 2A(1) of the Act, the State Government may by notification with effect from such dates as may be specified therein constitute for each District a Committee for the purpose of this Act, the Collector of the District as Chairman of the Committee and the District Forest Officer, the Tahsildar, and Executive Engineer Agricultural Department incharge of soil



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conservation having jurisdiction are the members of the Committee.

As per section 3(1) (a), owner of any forest shall without the prior sanction of the Committee, sell, mortgage, lease or otherwise alienate the whole or any portion of the forest. As per section (1) (b) any alienation in contravention of clause (a) shall be null and void. The subject land RS.No.701/6 correlated to O.S.No. 33/1A1A2 of Gudalur Village of Gudalur Taluk is notified under the provision of the TNPPF Act 1949. As such any alienation is contravention of section 3(1) (1) of the Act. The S.No. 701/6 of Gudalur Village of Gudalur Taluk constructed a concrete building without prior permission of the Collect of the Nilgiris. The petitioner has applied for sale permission for 4 ½ cents of land in S.No.701/6 of Gudalur Village, while the petitioner's application was taken up for perusal before the Committee, it has noticed that the 4 ½ cents of land compraised in S.No.701/6 for which sale permission sought has been constructed a concrete building without permission of the Committee (Collector). Therefore the petitioner's application was rejected by the Committee on the ground that the land involved in the sale application was subdivided against the rules of the TNPPF act 1949. Aggrieved by this order the petitioner has filed this writ petition.

5.Heard Mr.B.Leelesh Sundaram, learned counsel appearing on



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behalf of the petitioner and Mr.C.Sathish, learned Government Advocate
appearing on behalf of the respondents.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.In the present case, the subject property falls within the purview of Tamil Nadu Preservation of Private Forests Act, 1949 (herein after referred to as "TNPPF Act"). Under the said enactment, any owner of the property has to get the prior sanction of the Committee before selling, mortgaging, leasing or in any other way alienating the property, failing which the alienation will be treated as null and void. In view of this provision, the petitioner ought to have obtained the prior permission from the concerned authority before the Sale Deed was executed in his favour in the year 2009. No such permission was obtained and hence, the very sale in favour of the petitioner will be deemed to be null and void under Section 3(1)(b) of the TNPPF Act.

8.There is yet another contravention that has taken place in this case. The petitioner ought to have obtained permission from the



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concerned authority before putting up any concrete structure in the property. Such a permission was also not obtained by the petitioner. The TNPPF Act mandates the use of land that has been notified under the Act only for the purpose of cultivation and putting up any superstructure in the land without prior permission, is treated to be a violation not only under the relevant enactment but also under the Forest Preservation Act and the orders passed by the Hon'ble Supreme Court.

9.The 1st respondent had taken into consideration all these violations and through the impugned order dated 13.04.2014, rejected the request made by the petitioner for sale of the property.

10.This Court does not find any illegality or infirmity in the order passed by the 1st respondent. In the considered view of this Court, the petitioner will not even be treated as the owner of the property in the eye of law, since alienation in favour of the petitioner that took place in the year 2009, was done without the prior permission of the Committee. Therefore, the petitioner lacks the *locus standi* to even seek for a permission to sell the land. This Court does not find any ground to interfere with the order passed by the 1st respondent and this writ



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petition lacks merits.

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11.In the result, this writ petition stands dismissed. No Costs.

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Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

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N. ANAND VENKATESH, J.

ssr

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