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W.P.No.25831 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.25831 of 2015 and
M.P.No.1 of 2015

1. Rajeev R.Kartha
2. Smitha Padmanabhan .. Petitioners

VS

1. State of Tamil Nadu
Rep. by the Secretary to Government
Environment and Forest Department (FR-5)
Fort St. George, Chennai 600 009.

2. The Collector of Nilgiris
Udhagamandalam
The Nilgiris – 640 001.

3. The Sub Registrar
Gudalur, Gudalur Bazaar Post
The Nilgiris – 643 212. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the third respondent herein to register the sale deed of the petitioner bearing provisional numbers 80 and 81 of 2010.

For Petitioners : Mr.G.Govarthanan
for Mr.B.Ramamoorthy

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader



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ORDER

The petitioners states that two sale deeds dated 06.09.2010 were executed by Mrs.P.N.Madhavi and four others in favour of the petitioners and was registered as P.Nos.80 & 81 of 2010 respectively for the reason that the properties purchased by them were declared as “private forests” under the provisions of the Tamil Nadu Preservation of Private Forests Act, 1949.

2. Section 3 of the Tamil Nadu Preservation of Private Forests Act, 1949 prescribes that:

“Preservation of Private Forests :- (1)(a) No owner of any forest shall, without the previous sanction of the committee, sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.

(b) Any alienation in contravention of clause (a) shall be null and void.

(2) No owner of any forest, and no person claiming under him, whether by virtue of a contract, license or any other transaction entered into before or after the commencement, of the Tamil Nadu Preservation of Private Forest Act, 1946, or any other person shall, without the previous permission of the Committee (a) cut trees or reeds (b) do any act likely to denude the



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forest or diminish its utility as food.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the State Government may exempt any forest or class of forests or class of trees therein from all or any of the provisions of this section.”

Therefore, prior permission of the District Committee constituted under Section 2(A) of the Tamil Nadu Preservation of Private Forests Act, 1949 is mandatory for selling the lands notified under the said Act and that specific clause must be incorporated in the sale document when the lands notified under the said Act are sold.

3. In view of the specific restrictions imposed in the Tamil Nadu Preservation of Private Forests Act, 1949, the second respondent, in the Circular No.Rc.A4.52857/08 dated 21.08.2009, directed all the Sub Registrars in the Nilgiris District to ensure that the written permission of the District Committee is produced by the executants along with the sale deeds for registration. The properties, subjected to sale in the sale deeds dated 06.09.2010, were declared and notified as “private forest” under the Tamil Nadu Preservation of Private Forests Act, 1949. Therefore, the said sale deeds were registered but assigned with pending document numbers as P80/2010 and P81/2010 and the petitioners were



advised to produce the order of the District Committee for releasing the documents.

4. The Tamil Nadu Preservation of Private Forests Act, 1949 is a special enactment which strives to prevent the indiscriminate destruction of private forests and to maintain the flora and fauna of forests in the Nilgiris District.

5. The sale deeds registered and assigned with pending numbers on 06.09.2010 are pending for a number of years. The pendency of registered documents have posed numerous administrative problems. Therefore, vide letter dated 30.07.2014, the petitioners were called upon to produce the order of the District Committee for completing the registration formalities and releasing the said sale deeds to them at an early date. Instead of taking steps to produce the order of the District Committee, the petitioners have filed the above writ petition.

6. In view of the fact that the mandatory conditions are separately made under the provisions of the Tamil Nadu Preservation of Private Forests Act, 1949, the petitioners have to obtain permission / No



Objection Certificate from the competent Committee, constituted under Section 3(2) of the Act. It is made clear by the petitioners that No Objection Certificate, as required under the Act, has been produced along with the registration.

7. The learned counsel for the petitioners states that the land sought to be transferred is measuring lesser than two hectares and therefore, no such permission is required. However, the petitioners have to approach the competent Committee for the purpose of establishing his case. Contrarily, the petitioners cannot assume the mandatory requirements and present the documents for registration. Thus, the petitioners are at liberty to approach the competent Committee for the purpose of seeking permission / No Objection Certificate for the purpose of transferring the property in accordance with law. In the event of submitting any such application, it shall be decided on merits and in accordance with law.

8. As far as the pending documents are concerned, the relief as such sought for in the writ petition cannot be granted and after complying with the conditions stipulated under the Act, the petitioners are at liberty



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to pursue with the registration.

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9. With these directions, the writ petition is disposed of. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Neutral Citation : Yes/No

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To:

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S.M. SUBRAMANIAM, J.

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