



W.P.(MD) No.28026 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.28026 of 2024
and
W.M.P.(MD) No.23776 of 2024**

1.Akila
2.Geetha
3.Rukmani
4.Seethalakshmi
5.Venkataram Kumar ... Petitioners

/vs./

1.The District Collector,
Tenkasi District.

2.Sub Registrar,
Shencottai,
Tenkasi District.

3.The District Forest Officer,
Tenkasi.



W.P.(MD) No.28026 of 2024

4.The District Forest Committee,

Tenkasi.

*(R4 has been impleaded vide
order dated 29.11.2024)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in Na.Ka.No.I2/2778/2022 dated Nil. 11.2023 and consequent order passed by 2nd respondent in RFL/Shencottai/61/2024 dated 16.10.2024 and to quash the same and further direct the respondent to register the deed presented to register the sale in respect of the property comprised in Re-Survey No. 1052/1B1, 1052/2D, 1052/2E and 1052/3A at Keelur Village, Shencottai, Tenkasi District.

For Petitioners	: Mr.T.S.Mohamed Mohideen
For R1 and R3	: Mr.R.Suresh Kumar Additional Government Pleader
For R2	: Mr.M.Sarangan Additional Government Pleader

ORDER

This writ petition had been filed challenging the order made by the District Forest Committee, by which an order has been passed without the approval of the District Forest Committee as prescribed under the Tamil Nadu Preservation of Private Forests Act, 1949 (*herein after referred to as Act*).



W.P.(MD) No.28026 of 2024

WEB COPY

2. It is the case of the petitioners that they had purchased the lands under different sale deeds in the years 1986, 1988 and 1989 and that they had proposed to sell the same land in favour of a third party and for that reason, they had approached the District Forest Committee for grant of permission as per Section 3(1)(a) of the Act. They would submit that Section 3 of the Act prohibits an owner of the forest to alienate any land falling within the forest area without the previous sanction of the Committee, but however Section 4A of the Act had been inserted in the year 2015, wherein any sale that had been made in contravention of Section 3 on an application to the Committee for ratifying such cases has been provided. Therefore, he would submit that when the Committee had the power to ratify the sale without following the mandate of Section 3(1)(a) of the Act, the Committee ought to have considered the case of the petitioners in the proper perspective and ought not to have rejected the permission sought for by the petitioners to sell the land belonging to them. He would further submit that before passing of the adverse order, the Committee had also not given an opportunity of hearing to the petitioners and therefore would seek indulgence of this Court.



W.P.(MD) No.28026 of 2024

WEB COPY

3. Countering his arguments, Mr.R.Suresh Kumar, learned Additional Government Pleader appearing on behalf of the respondents 1, 3 and 4 would submit that Section 3(1)(b) mandates that any alienation in contravention would have to be treated as null and void and therefore, when the purchase by the petitioners itself was null and void transaction, the petitioners cannot seek further permission to sell the land. He would submit that the petitioners had not made an application as provided under Section 4A to ratify the purchase. Hence he would submit that there are no merits in this writ petition and pray this Court to dismiss the writ petition.

4. I have considered the rival submissions made by the learned counsel on either side.

5. The undisputed facts are that the petitioners are the owners of the land having they purchased the same. It is also an admitted fact that the original owner of the property had not sought permission as provided under Section 3(1)(a) of the Act. The learned Additional Government Pleader would have been in right in



W.P.(MD) No.28026 of 2024

WEB COPY
relying upon Section 3(1)(b) of the Act to contend that the sale in contravention is null and void, however the Government by way of amendment inserted Section 4A which envisages that notwithstanding anything contained in sub section 3(1), the purchaser can make an application for retaining the land. If the contention of the learned Additional Government Pleader is to be accepted, it will render Section 4A redundant and otiose. It is to be noted that Section 4A of the Act opens up with a non-obstante Clause with regard to Section 3(1) of the Act. Therefore, the contention of the respondents is rejected.

6. However, considering the fact that the petitioners' vendor had not got sanction from the Committee and that the statute itself envisages an application by a purchaser without sanction under Section 3(1) of the Act to approach the District Forest Committee to retain the lands, the order impugned herein is set aside with liberty to the petitioners to approach the District Forest Committee under Section 4A of the Act. The petitioners shall make their application within a period of two weeks from the date of receipt of a copy of this order and the District Forest Committee shall consider the same thereafter within a period of three months. After the order is passed under Section 4A, the petitioners may be



W.P.(MD) No.28026 of 2024

WEB COPY

at liberty to approach the Committee for grant of sanction to sell the property.

7. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

29.11.2024

To

- 1.The District Collector,
Tenkasi District.
- 2.Sub Registrar,
Shencottai,
Tenkasi District.
- 3.The District Forest Officer,
Tenkasi.
- 4.The District Forest Committee,
Tenkasi.



WEB COPY



W.P.(MD) No.28026 of 2024

K.KUMARESH BABU, J.

mm

W.P.(MD) No.28026 of 2024

29.11.2024