ITEM NO.26 COURT NO.3 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 21476-21477/2023

(Arising out of impugned final judgment and order dated 31-07-2023 in WPMD No. 9367/2016 30-08-2023 in REV.APLW(MD) No. 158/2023 passed by the High Court of Judicature at Madras At Madurai)

N.S. BALAJI Petitioner(s)

VERSUS

THE PRESIDING OFFICER DEBT RECOVERY TRIBUNAL & ORS. Respondent(s)

(IA No.197246/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 03-10-2023 These petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Ramakrishnan Viraghavan, Sr. Adv.
Mr. K. Krishna Kumar, AOR

For Respondent(s)

UPON hearing the counsel, the Court made the following
O R D E R

In the present case, the petitioner claims that the property in question was a joint family property/Hindu Undivided Family (HUF) property, which was mortgaged by the petitioner's father as one of the guarantors. The petitioner also states that his father was the *Karta* of the HUF.

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Date: 2023.10.05 17:42:51 IST
Reason:

The position on the rights of a *Karta vis-à-vis* an HUF property is well settled. This Court in *Sri Narayan Bal* v. *Sridhar Sutar*[1] has held that the *Karta* has the right to sell/dispose

1 **(1996) 8 SCC 54.**

of/alienate an HUF property, even if a minor of the family has undivided interest. The reason is that an HUF is capable of acting through its *Karta* or an adult member of the family in the management of the HUF property.

Thus, the father of the petitioner herein, as the *Karta* of the HUF, was entitled to mortgage the HUF property. The son(s) or other member(s) of the HUF need not be consenting parties to the mortgage. Post alienation, a coparcener may challenge the act of a *Karta,* if the alienation is not for legal necessity or for betterment of the estate, which is not the assertion established in the present case.

In light of the aforesaid, we are not inclined to interfere with the impugned judgment and hence, the special leave petitions are dismissed.

Pending application(s), if any, shall stand disposed of.

(BABITA PANDEY)
COURT MASTER (SH)

(R.S. NARAYANAN)
ASSISTANT REGISTRAR