

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.9362 of 2012

ORDER:

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Heard learned counsel for the petitioner and learned counsel for the respondents. With the consent of both the parties, the Writ Petition is disposed of at the admission stage itself.

The present writ petition came to be filed seeking to declare the impugned proceedings dated 04.12.2010, passed by the third respondent in Roc.No.A/NIL/2010 as illegal, arbitrary, against the provisions of A.P.Assigned Lands (Prohibition of Transfer) Act, 1977 (for short, 'the Act of 1977') and also against the precedents laid down by this Court in W.A.No.950 of 2007 and consequently set aside the impugned proceedings dated 04.12.2010.

The facts in issue are as under:

The petitioner purchased land to an extent of Acs.1.51 cents in Survey Nos.121/2 and 121/4 of Angallu revenue Village, Kurabalakota Revenue Mandal, Chittoor District, under a registered sale deed bearing Doc.No.2404/2006, dated 26.04.2006 and rectification deed document No.4019 of 2006, dated 19.07.2006 from his vendor Sri D.Ravindar Reddy. From the date of purchase, the petitioner claims to be in possession and enjoyment of the same. The land which the petitioner has purchased was originally owned by one S.Khasim Saheb. The said S.Khasim Saheb mortgaged the above property to Madanapalli Cooperative Town Bank Limited, Madanapalli for securing loan. As the said Khasim Saheb committed default in repayment of loan, the said property was sold for realization of the loan amount by the Register of Cooperative Societies in EP No.84/2005-06, dated 29.02.2005. In the auction conducted by the Cooperative Town Bank Limited, Madanapalli, the vendor of the petitioner, being highest bidder, purchased the above said property for a valuable consideration. Thereafter, the Bank issued a sale certificate on 29.12.2005. Subsequently, the petitioner purchased the said property from his vendor in the year 2006. While things stood thus, the third respondent issued a notice on 04.12.2010 under Rule 3 of the A.P.Assigned Lands (Prohibition of Transfers) Rules, 2007, directing the petitioner to show cause as to why the petitioner should not be evicted from the said assigned land. Challenging the issuance of the said notice, the present Writ Petition came to be filed.

Basing on the instructions received, learned Government Pleader submits that the Tahsildar, who issued the impugned notice, was not aware of the earlier transactions and also about the sale of the land in auction by the Bank.

That being the position, the issue that falls for consideration is; whether the land purchased by the petitioner from his vendor who in turn purchased the same in a Bank auction, is liable to be evicted?

The issue is no more *res integra*, in view of the orders passed by this Court in W.P.No.5102 of 2011, wherein a learned Single Judge of this Court, while referring to another judgment of this Court in ***the Sub-Registrar, Srikalahasti, Chittoor Distirct Vs. K.Guravaiah***^[1], held that "the assigned land subjected to mortgage and thereafter bought to sale by the mortgagee Co-operative bank/Co-operative Society would cease to be assigned land for the purpose of the Act of 1977. Therefore, the action initiated by the respondents therein under the provisions of the Act of 1977 is clearly unsustainable in law".

The case on hand is identical to the case referred to above. Hence, the Writ Petition is allowed setting aside the impugned order dated 04.12.2010 passed by the third respondent in Roc.No.A/NIL/2010 in respect of land to an extent of Acs.1.51 cents situated in Survey Nos.121/2 and 121/4 of Angallu Revenue Village, Kurabalakota Revenue Mandal, Chittoor District. No costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

02.09.2015
vhb

JUSTICE C. PRAVEEN KUMAR

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