

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

W.P.No.10711 of 2014

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Assignments appearing for respondents.

2. An extent of Ac.4.00 cts. of dry land comprising Ac.3.00 cts in Sy.No.527/2 and Ac.1.00 cts in Sy. No.524/3 of Chittathur village, Thottambedu Mandal, Chittoor District which had been mortgaged to the Chittoor District Cooperative Central Bank Limited, Chittoor was put up for public auction by the said bank on 03-01-2007 and the petitioner participated in the said auction and the sale was confirmed by 3rd respondent on 12-03-2007.

3. It is not in dispute that the said land was assigned land originally assigned by 2nd respondent to one V.Raja Reddy of Chittoor village who had taken a loan from Thangallapalem Primary Agricultural Cooperative Society by mortgaging it. Since he had not repaid the said loan to the said PACS, proceedings were initiated under Section 71 of the AP Cooperative Societies Act and the land was brought to sale in E.P.No.168/04-05. In the auction conducted in the said E.P. the petitioner purchased the same.

4. According to the petitioner, after purchase by him, a sale certificate was issued on 07-04-2007 by 3rd respondent and by virtue of the said sale, he became an absolute owner of the property. He then approached 2nd respondent for mutation of the same in the revenue records under the provisions of AP Pattedar Passbook Act, 1971 and also for issuance of pattedar pass book and title deeds by filing application on 05-09-2011. Petitioner's grievance is that 2nd respondent has not taken any action thereon.

5. Learned counsel for the petitioner contends that the provisions of the AP Assigned Lands (Prohibition of Transfer) Act, 1977 do not apply the alienations of this nature in view of Section 6 thereon which states:

"Section.6: Exemption- Nothing in this Act shall apply to the assigned lands held on mortgage by the State or Central Government, any local authority, a Cooperative Society, a schedule bank or such other financial institutions owned, controlled or managed by the State Government or the Central Government as may be notified by the Government in this behalf."

Therefore, the learned counsel for the petitioner contends that the respondent Nos.1 and 2 are bound to mutate the petitioner's name in the revenue records and to issue pattedar pass book and title deed to him. Learned counsel for the petitioner has also relied upon the judgment in **Sub-Registrar, Srikalahasti, Chittoor**

District and another Vs. K.Guravaiah and another^[1]

where a Division Bench of this Court had held that if assigned lands are mortgaged in favour of financing bank such as District Cooperative Central Bank, the said mortgage itself is not treated as alienation and if such properties were put the auction and the bank sold the land after following due process of law, the purchaser becomes a lawful owner of the land. This Court had held that the refusal of the Sub Registrar to register such a sale deed on the ground that the lands in question are assigned lands and cannot be alienated, is not justified.

6. In the counter affidavit filed by 2nd respondent, however, a stand is taken that the original assignee had not cultivated the land and therefore proceedings under the AP Assigned Lands (POI) Act, 1977 are issued on the ground of violation of Condition No.2 of 20 of D-Form patta granted to him and when he did not submit any explanation to the notice issued on 12-10-2010, the land was resumed on 09-09-2010 for violation of Condition No.2 of 20 of D Form patta.

7. This condition does not appear to be valid because there cannot be resumption prior to issuance of notice to the assignee to show cause why the assignments should not be cancelled. Therefore, the very resumption of the land by the respondent Nos.1 and 2 is void in the eye of law. In any event, once there is a sale

conducted by the sale officer of the Chittoor District Cooperataive Central Bank, Chitoor on 03-01-2007, in which the petitioner became the highest bidder and the sale was confirmed in his favour on 12-03-2007 and Sale Certificate was also issued on 03-04-2007, it was incumbent on the respondent Nos.1 and 2 to issue a notice to the petitioner before initiating any action for resumption of the land in the year 2010.

8. Admittedly this also has not been done. In view of the decision in **K.Guravaiah** (supra) and since the petitioner had purchased from the sale officer of the Chittoor District Cooperative Central Bank, Chittoor, the subject land and had also obtained Sale Certificate in regard to the same from the said bank, the petitioner has become a lawful owner of the land and the provisions of the AP Assigned Lands (POI) Act, 1977 cannot be applied to the petitioner in view of Section 6 thereof which is extracted above.

9. Therefore, the Writ Petition is allowed and the respondent Nos.1 and 2 are directed to carryout the necessary amendments in the record of rights by mutating the petitioner's name as owner of the subject land and they are also directed to issue pattedar passbook and title deed to him within four weeks from the date of receipt of a copy of this order. No costs.

10. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-04-2016

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[\[1\]](#) 2009 (2) ALD 250 (DB)