

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.5461 of 2016

ORDER:

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

2. The land admeasuring Ac.8.30.84 cts in Sy. No.334/1 and 2 of Vellaturu village, Pendlimarri Mandal, Kadapa District, originally belonged to one Ambati Malla Reddy who had purchased the same in a public auction conducted by the District Co-opetative Central Bank, Kadapa in the year 1994 pursuant to the order passed in E.P.No.1975-76.

3. According to the petitioner, this Certificate was issued by the said bank in favour of Ambati Malla Reddy. Subsequently, the petitioner purchased said land from the legal heirs of Ambati Malla Reddy and other family members. Petitioner intended to sell the land in favour of one M.Naga Malla Reddy and executed a sale deed on 24-11-2014 in favour of the latter.

4. Petitioner contends that 2nd respondent however refused to register it on the ground that survey No.334 of Vellaturu village is classified as assigned waste land.

5. Learned counsel for the petitioner relies upon

judgment of a Division Bench of this Court in **Sub-Register, Srikalahasti, Chittoor District and another Vs.**

K.Guravaiah and another^[1] and contends that the Sub Registrar cannot refuse to register the sale deed on the ground that assigned land cannot be alienated since in that case, the Division Bench has held that if assigned land had been mortgaged in favour of a bank, such mortgage is not treated as an alienation and if the land is put to auction by the bank on failure to pay the mortgage money, the purchaser would become lawful owner of the land.

6. This legal principle is not disputed by the learned Government Pleader for Revenue.

7. Having regard to the above Division Bench judgment, the Writ Petition is allowed and the action of 2nd respondent in refusing to register the sale deed presented by the petitioner is declared as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India and also the decision of the Division Bench referred to above. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-03-2016

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