

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.8247 of 2017

ORDER:

The case of the petitioner is that he purchased land to an extent of Ac.9.92 cents of dry land of Narayanapuram Village, Srikalahasti Mahndal, Chittoor District in public auction held by the Sale Officer of the Chittoor District Cooperative Central Bank Limited, Chittoor on 09-12-2005 and the sale was confirmed by the 3rd respondent on 17-01-2006. The particulars of that land are to an extent of Ac.3-62 cents comprised in Sy.No.168-1 and Ac.1-30 cents in Sy.No.174-2 auctioned in EP.No.363 of 2000-01 and an extent of Ac.5-00 cents comprised in Sy.No.176-1 auctioned in EP.No.365/2000-01 respectively. The petitioner also purchased an extent of Ac.5-00 cents comprised in Sy.No.175-1 in EP.No.359/2000-01 and an extent of Ac.2-82 cents comprised in Sy.No.173-1 and Ac.2-00 cents comprised in Sy.No.176-2 in EP.No.366/2000-01 in public auction held by the sale officer of the Chittoor District Cooperative Central Bank Limited, Chittoor on 12-01-2006 and the sale was confirmed by the 3rd respondent on 17-02-2006 and 28-02-2006 respectively and sale certificates dated 28-01-2006 and 07-03-2006 were issued by the 3rd respondent. Thereafter basing on the sale certificates, petitioner was issued pattadar passbooks and title deeds. When the petitioner wanted to alienate the said property, he approached the 1st respondent to know the market value, he was informed that subject land

cannot be registered as the schedule properties are assigned lands as per the list furnished by the Tahsildar, Srikalahasti. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that subject land though assigned was sold in the public auction by the Kapugunneri Primary Agriculture Cooperative Society bank, (PACS), as the assignee who obtained loan has not paid the amounts and committed default in payment of loan. The PACS initiated proceedings under A.P. Cooperative Societies Act (for short “ the Act”) and said lands have been brought to sale in EP.Nos 363, 365, 359 and 366/2000-01 under Section 71 of the Act and bid was knocked in favour of the petitioner being the highest bidder and he has paid the entire sale consideration and the sale was confirmed and sale certificates dated 28-01-2006 and 07-03-2006 were issued by the 3rd respondent. Once the assigned lands are sold in public auction by the banks, they lose the character of assigned lands and denying document for registration on that ground is untenable. In support of his contention, learned counsel for the petitioner relied on the judgment of **Sub-Registrar, Srikalahasti, Chittoor District v. K.Guravaiah**¹.

Learned Assistant Government Pleader for Revenue submits that the petitioner has not approached the 1st respondent and there is no refusal order. Though time was granted he could not dispute the assertion of petitioner and above legal position.

¹ 2009(2) ALD 250(DB)

In this case, it is to be seen that it is for the 1st respondent to receive the documents and register the same, if the same are in order, as the petitioner asserts that subject land has been sold in auction conducted in pursuance to the default committed by the original assignee of subject lands in EP.Nos 363, 365, 359 and EP.No.366/2000-01 and the petitioner purchased the same in public auction and was issued sale certificates and his name was entered in revenue records.

In the judgment cited supra, Division Bench of this Court held as under:

“ Let us consider the provisions of Section 5 of the Assigned Lands Act in the light of the facts of the present case. In the present case, as stated hereinabove, it was open to the original assignees of the land to mortgage the land to the bank by virtue of definition of Section 2 (1). If the mortgage in favour of the bank was not alienation, there was no restriction with regard to mortgaging the assigned land in favour of the bank. Thus, the mortgage was valid. As the mortgage money was not repaid to the bank, the bank sold the land after following due process of law and thereby the petitioner became a lawful owner of the land in question. In view of the above fact, in our opinion, provisions of Section 5 would not operate because the prohibition is on registration of any document relating to transfer or creation of any interest in assigned land. In the instant case, the transaction in pursuance of which the land had been purchased by the petitioner was valid and not contrary to the provisions of the Assigned Lands Act. In such a case, in our opinion, if the concerned party had approached the District Collector for obtaining prior permission, the District Collector was bound to accord necessary permission in favour of the person seeking such permission. At the most, the authorities could have approached the District

Collector for seeking permission under Section 5 and in that event, the District Collector was bound to give permission in view of the fact that the bank, admittedly a co-operative society registered under the provisions of the Co-operative Societies Act, could have become a mortgagee in respect of the assigned land.

In view of the above facts, in our opinion, the learned Single Judge was justified in allowing the petition by directing respondent No.1 to register the sale deed in accordance with law as Section 5 of the Act would not come in way of the parties in the matter of registration of the document.”

In view of above facts and circumstances of the case, the 1st respondent is directed to receive and register the documents presented by the petitioner in respect of subject land, if the same are in order as per Stamp and Registration Act by verifying the above facts, if alienation of said land is not prohibited by any injunction/order of the Court.

With the above direction, this writ petition is disposed of. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

23-03-2017

Nvl

