

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION No.7946 OF 2017**

**ORDER:**

The case of the petitioner is that she purchased land to an extent of Ac.8-33 cents of dry land of Akkurthy Village, Srikalahasti Mahndal, Chittoor District in public auction held by the Sale Officer of the Chittoor District Cooperative Central Bank Limited, Chittoor on 06-10-2005 and the sale was confirmed by the 3<sup>rd</sup> respondent on 24-11-2005. The particulars of that land are to an extent of Ac.0-40 cents in Sy.No.444-3, Ac.2-57 cents in Sy.No.445-3 and Ac.0-54 cents in Sy.No.447-7 in EP.No.364 of 2000-01 and an extent of Ac.1-61 cents comprised in Sy.No.445-1, Ac.1-98 cents in Sy.No.446-3, Ac.0-74 cents in Sy.No.444-4 and Ac.0-49 cents in Sy.No.447-4 in EP.No.361/2000-01 and on the same day she purchased an extent of Ac.4-94 cents i.e. Ac.2-17 cents comprised in Sy.No.174-1, Ac.1-17 cents in Sy.No.174-3 and Ac.1-60 cents in Sy.No.174-4 situated in Narayanapuram Village, Srikalahasti Mandal, Chittoor District in EP.No.360/2000-01 in public auction and the said sale was also confirmed by the 3<sup>rd</sup> respondent on 24-11-2005. Thereafter basing on the sale certificates, petitioner was issued pattadar passbooks and title deeds. When the petitioner wanted to alienate the said property, she approached the 1<sup>st</sup> respondent to know the market value, she was informed that subject land cannot be registered as the

schedule properties are assigned lands as per the list furnished by the Tahsildar, Srikalahasti and as such the same are covered by provisions of Section 5 of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 and directed the petitioner to submit NOC from the Revenue Divisional Office. 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 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 364, 361 and 360/2000-01 under Section 71 of the Act and bid was knocked in favour of the petitioner being the highest bidder and she paid the entire sale consideration and the sale was confirmed and sale certificates dated 12-12-2005 were issued by the 3<sup>rd</sup> 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**<sup>1</sup>.

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<sup>1</sup> 2009(2) ALD 250(DB)

Learned Assistant Government Pleader for Revenue submits that the petitioner has not approached the 1<sup>st</sup> respondent and there is no refusal order.

In this case, it is to be seen that it is for the 1<sup>st</sup> respondent to receive the document and register the same, if the same is not in the list of prohibited properties made under Section 22-A of the Registration Act and the same is in order. If he wants to refuse to register, he shall record reasons. But in the present case, the petitioner asserts that subject lands have been sold in auction conducted in pursuance to the default committed by the original assignee of subject lands in EP.Nos 364, 361 and 360/2000-01 and the petitioner was issued sale certificates and her 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, it is for the 1<sup>st</sup> respondent to consider those aspects and law laid down by this Court in the judgment cited supra before accepting the documents for registration. If the petitioner presents the documents, the 1<sup>st</sup> respondent shall take into consideration the above aspects while processing the documents for registration and take action accordingly.

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.

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**A.RAJASHEKER REDDY,J**

23-03-2017

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