

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.36857 of 2017

ORDER:

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

2. Petitioner has filed this Writ Petition challenging the action of the 2nd respondent in including petitioner's land in Sy. No.99/1 of Allipalli village, Utasamudram Panchayath, Chintalapudi Mandal, West Godavari District in the list of lands which are not to be registered by way of communication addressed to 4th respondent and to delete the same from the said list.

3. Learned counsel for the petitioner contends that the said land originally belongs to one Settupalli Venkata Rama Rangarao who purchased the same in an open auction conducted by the Primary Agriculture Cooperative Society, Seethangaram in E.P.No.3755 of 1989-90 dt.06-02-1991; he then sold the same to Smt. Sayala Saramma under registered sale deed being document No.1211 of 2005; and from the said Saramma, petitioner purchased it under registered sale deed being document No.1359 of 2014. He contends that when he intended to sell the property and went to the office of 4th respondent, he was informed that his property was included in the prohibitory properties register furnished by the District Collector to 4th respondent.

4. Learned counsel for the petitioner placed reliance on the judgment of the Division Bench of this Court in **Sub Registrar, Srikalahasti, Chittoor District Vs. K.Guravaiah¹**, and contends that the lands which were assigned by the State can be mortgaged in favour of Primary Agriculture Cooperative Society, and if the mortgager commits default in payment of the loan amount, the said lands can be sold for recovery of the same, and that such a sale is valid in law. He contends that once there is a sale of the said land on 06-02-1991 in favour of Settipalli Venkata Rama Rangarao in E.P.No.3755 of 1989-90, the property ceased to be the property of the State and the said individual obtained valid title to the property; and having registered the sale deed by the said person in favour of Saramma, and the subsequent sale deed from Saramma to the petitioner, the respondents are estopped from contending that the land is Government land and cannot be alienated.

5. In the counter affidavit filed by the respondents, it is stated that Notification has been issued on 19-05-2016 pursuant to order passed by Full Bench of this Court in W.A.No.343 of 2015 and batch including the petitioner's land and that as per provisions of Section 3 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, sale of assigned land is impermissible and void. It is contended that land was originally assigned land and therefore cannot be allowed to be conveyed through registered document.

¹ 2009 (2) ALD 250

6. No reference in the counter affidavit is made to the law declared by this Court in **K.Guravaiah** (1 supra). In the said judgment, this Court held that when the original assignee mortgaged the land assigned to him in favour of a bank or a financial institution or cooperative society under A.P. Cooperative Societies Act, 1964 and if the money is not paid, the consequences provided in the Transfer of Property Act, 1982 would naturally follow; that it is permissible to put the said land to public auction under the said Act and recover the land dues to the financial institution by way of sale; and such a sale is valid in law. It held that as per Section 2 (1) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, mortgage in favour of a bank or a cooperative Society is not alienation. Therefore, the mortgage is valid and consequently Section 5 will not operate and the sale to recover the mortgage dues of the said land is equally valid. Therefore, the objection raised by the respondents to the registration of the petitioner's document is totally invalid and cannot be sustained.

7. Therefore the Writ Petition is allowed and a direction is issued to the respondents to delete the land of the petitioner from the prohibitory list issued by 2nd respondent to 4th respondent under Section 22-A of the Registration Act, 1908 forthwith; the petitioner is directed to present the document for registration before 4th respondent within one week from the date of receipt of a copy of this order; on submission of the said document, 4th respondent shall consider the same for the purpose of registration strictly in accordance with the

Stamp Act, 1899 and Registration Act, 1908 without reference to the prohibitory list under Section 22-A of the Registration Act, 1908 and proceed to register the same and release the same to the petitioner. This exercise shall be completed within four weeks from the date of submission of the document by the petitioner. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 17-11-2017
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