

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

WRIT APPEAL No.1893 of 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice)

This appeal, under Clause 15 of the Letters Patent, is preferred against the ad-interim order dated 11.09.2017 passed by the learned Single Judge in WPMP.No.38096 of 2017 in W.P.No.30571 of 2017, whereby the Sub-Registrar (Urban), Kadapa, was directed to entertain the Deed of Conveyance, and process it for registration without treating the property as assigned land; and if the document was otherwise in order, the same could be registered. The learned Single Judge observed that any such registration shall abide by the result of the writ petition.

The reasons which weighed with the learned Single Judge, in passing the said interim order, was the earlier judgment of this Court wherein it was held that, though the subject property was assigned land, it was mortgaged in favour of the Bank; on failure of the assignee to repay the debt due, the bank had put the subject property to auction; it would then lose the character of assigned land and, therefore, the subject property should be registered.

While the learned Government Pleader for Revenue would submit, not without justification, that the order passed in W.P.No.27781 of 2009 dated 16.07.2010 was also passed at the stage of admission, without giving the appellants an opportunity

of being heard, the fact remains that the order passed on 16.07.2010 has not been questioned by the appellants in appeal before a Division Bench of this Court, and the said order has attained finality. The order, passed in W.P.No.27781 of 2009 dated 16.07.2010, was on the basis of a Division Bench judgment of this Court in THE SUB-REGISTRAR, SRIKALAHASTI, CHITTOOR DISTRICT v. K. GURAVIAH¹, wherein the Division Bench held that assigned land, mortgaged by the assignee to the Cooperative Bank if put to auction by the Bank for failure of the assignee to repay the amount, would result in its being denuded of the character of 'assigned land' in the hands of the auction purchaser. The learned Single Judge had, by his order in W.P.No.27781 of 2009 dated 16.07.2010, directed the 6th appellant herein to receive and register the document in respect of the same lands. The order in W.P.No.27781 of 2009 dated 16.07.2010, an order inter-parties which has attained finality, is binding on the appellants.

The submission of the learned Government Pleader that failure on the part of the appellants to comply with the order of the learned Single Judge in W.P.No.27781 of 2009 dated 16.07.2010 may enable them to proceed against the appellants under the Contempt of Courts Act, and not to file a writ petition afresh, does not merit acceptance. It is only after noticing that the earlier order, passed in W.P.No.27781 of 2009 dated 16.07.2010, has attained finality, did the learned Single Judge pass the interim order under appeal. While it is no doubt true

¹ 2009 (2) ALD 250 (DB)

that the effect of the interim order is to allow the writ petition itself, and such an order would, ordinarily, not be passed without giving the appellants (respondents in the writ petition) an opportunity of filing their counter, we are satisfied that, in the facts of the present case, the order of the learned Single Judge does not necessitate interference. The jurisdiction, which this Court exercise under Clause 15 of the Letters Patent, is limited and save a patent error in the order under appeal, no interference is called for. We find no such infirmity in the order under appeal.

In any event, it is always open to the appellants herein to file a petition seeking vacation of the interim order. Suffice it to make it clear that, in case the appellants avail their remedy of filing a petition to vacate the interim order, their petition shall be examined on its merits uninfluenced by the observations made by us in the present order.

Subject to the aforesaid observations, the appeal fails and is, accordingly, dismissed. No order as to costs.

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

RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J

13.12.2017.
Msr

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