

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.40292 of 2017

ORDER:

The case of the petitioners is that the subject land was originally assigned to one B.Krishna Murthy, who mortgaged it to the Chittoor District Co-Operative Central Bank, Chittoor; and when he committed default in payment of the loan amount, the said Bank initiated proceedings under the A.P. Cooperative Societies Act, 1964 for recovery of the loan amount; the land was put to public auction in EP.No.78/1993-94 by the Deputy Registrar/USD of the said Bank; and in that auction, the petitioners' vendor by name M.Uday Bhaskar purchased it on 02.07.1995 for a sum of Rs.42,500/-; pattadar pass book was issued to him for the said land; and petitioners purchased the same from said Uday Bhaskar under registered sale deed dt.17.08.2005.

2. Petitioners contend that when the petitioners wanted to alienate the said property and produced the document before the 5th respondent for the purpose of registration, he refused to register the same on the ground that the said land is included in the Prohibitory List communicated by the 4th respondent to the 5th respondent. Petitioners contend that the 5th respondent did not pass any reasoned order why he was

refusing to register the same and therefore the petitioners were forced to approach this Court.

3. The Government Pleader for Assignment appearing for respondents states that the subject land was assigned to B.Krishna Murthy on 15.11.1987 and thereafter it was included in the prohibitory list. He did not dispute the sale on 02.07.1995 in EP No.78/1993-94 in favour of the petitioners' vendor, M.Uday Bhaskar, or issuance of pattadar pass book and title deed to him.

4. A Division Bench of this Court in ***the Sub-Registrar and another v. K.Guravaiah S/o.Chalamaiah and another***¹ held that assigned land can be mortgaged by assignees for loans to Cooperative Society or Banks; to recover the dues, it can be sold under the A.P. Cooperative Societies Act, 1964; and that such a sale is valid. It also held that Section 5 of the A.P. Assigned Land (Prohibition of Transfer) Act, 1977 does not apply to such sales.

5. Applying the said principle, the sale in favour of the petitioners' vendor, M.Udaya Bhaskar, is valid and consequently the land ceases to be assigned land, after it is alienated in favour of the petitioners' vendor by the said Bank. Therefore, inclusion of the subject land in the Prohibitory List

¹ 2009(2) ALD 250 (DB)

communicated by 4th respondent to 5th respondent is not bonafide.

6. Accordingly, the Writ Petition is allowed with costs of Rs.3,000/- to be paid by the 1st respondent to the petitioners; and the 5th respondent is directed to register the document presented by the petitioners in respect of the subject land without reference to the Prohibitory List communicated to him by the 4th respondent within a period of six (06) weeks of the presentation of the document by the petitioners, strictly in compliance with the provisions of the Indian Stamp Act, 1899 and the Registration Act, 1908.

7. Consequently, miscellaneous petitions, pending if any, shall stand closed.

12th December, 2017.
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M.S.RAMACHANDRA RAO, J