

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.29838 OF 2018

ORDER:

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

2. Petitioner filed this Writ Petition challenging the action of the respondents 3 and 4 in including petitioner's land admeasuring Ac.4.00 gts, situated at Sy.Nos.425/5,426/4 and 477/4 of Makkinavaripalem Village, T. Narsapuram Mandal, West Godavari District, in the list of lands which are not to be registered by way of communication addressed to 6th respondent and to delete the same from the said list.

3. Learned counsel for the petitioner contends that the petitioner purchased the subject land in an auction conducted on 26.8.2003, by the Special Grade Deputy Registrar/Officer on special duty, the Cooperative Central Bank Limited, Eluru, West Godavari District for recovery of dues payable to the Makkinavaripalem Primary Agricultural Cooperative Society Limited from one Kota Gunnaiah. The petitioner was declared as a successful bidder in the auction held on 26.8.2003 and paid the auction amount of Rs.41,000/-. The District Cooperative Central Bank Limited, Eluru confirmed the sale and issued a sale certificate in Form-10 in favour of the petitioner under the provisions of A.P. Cooperative Societies Act, 7 of 1964 in the execution Petition No.752/2003-2004 dated 11.6.2004. The said sale certificate was registered at Sub Registrar Office, Chinthalapudi as Document No.412/2004 dated 31.11.2004 and ever since, the petitioner is cultivating the subject land.

4. It is further stated that the petitioner with an intention to dispose of the subject land to the prospective purchasers, approached the 6th respondent for presentation of the document by complying with all the requirements, but the 6th respondent informed the petitioner that the

subject land is included in the prohibited list for registration as per the list communicated by the respondents 3 and 4.

5. 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.Guravaiah**¹, 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 26.8.2003 in favour of the petitioner in E.P.No.752/2003-04, the property ceased to be the property of the State and the said individual gets valid title over the property; the respondents are estopped from contending that the land is Government land and cannot be alienated.

6. No reference is made by the learned Government Pleader 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 also 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 does not amount to alienation.

7. Therefore the Writ Petition is allowed with a direction to the respondents to delete the land of the petitioners from the prohibitory list issued by the respondents 3 to 6 under Section 22-A of the Registration

¹ 2009(2) ALD 250

Act, 1908 forthwith; the petitioners are directed to present the document for registration before 6th respondent within one week from the date of receipt of a copy of this order; on submission of the said document, 6th respondent shall consider the same for the purpose of registration strictly in accordance with the provisions of Stamp Act, 1899 and Registration Act, 1908, without reference to the prohibitory list under Section 22-A of the Registration Act, 1908 and proceed in accordance with law. This exercise shall be completed within four weeks from the date of submission of the document by the petitioners. No costs.

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

Dated:28.08.2018.
Gk

C. PRAVEEN KUMAR, J



HON'BLE SRI JUSTICE C. PRAVEEN KUMAR



WRIT PETITION No.29838 OF 2018

Date:28.08.2018

Gk