

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NOS.39583 AND 39586 OF 2018

COMMON ORDER

The case of the petitioners in both the writ petitions is that the subject lands were assigned lands and the assignees mortgaged the said land with the District Co-operative Central Bank, West Godavari and obtained loan. As the mortgagees failed to re-pay the loan amount, Bank brought the subject lands for sale in public auction and the petitioners participated in the auction, and purchased the land, as they are the highest bidders, and they were issued with sale certificates, and subsequently, their names were also mutated in the revenue records and they were issued with pattadar passbooks and title deeds. Aggrieved by the action of the respondents in continuing the subject land of the petitioners in the list of prohibited properties for registration under Section 22-A (1)(e) of the Registration Act, 1908, the present writ petitions have been filed.

Heard the learned counsel for the petitioners.

A Division Bench of this in *SUB-REGISTRAR, SRIKALAHASTI, CHITTOOR DISTRICT v. K.GURAVAI AH¹*, considering similar facts and circumstances, held that assigned lands mortgaged with the District Co-operative Central Bank, shall not be treated as alienation and when the mortgaged property is put in public action by the bank on failure of mortgagee in payment of mortgage amount, the auction purchaser becomes the lawful owner of the land and the sale of the said property by the auction purchaser, to third parties, cannot be questioned. The Division Bench further held that Sub-registrar cannot refuse to register the land on the

¹ 2009(2) ALD 250(DB)

ground that the assigned lands cannot be alienated and that Section 5 of the A. P. Assigned Lands (Prohibition of Transfers) Act, 1977, would not come in the way of parties in matter of registration of document. The relevant portion of the order is as under:

19. Let us consider the provisions of 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 the 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 the 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.

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22. 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 the law as Section 5 of the Act would not come in way of the parties in the matter of registration of the document.

Following the above Division Bench judgment of this court, another learned single Judge, in similar facts and circumstances, in W.P.No.20630 of 2012 dated 09.07.2012, held as under:

“It is no doubt true that the land was assigned at one point of time and that Section 22-A of the Registration Act as amended through Act 19 of 2007 prohibits registration of documents pertaining to assigned lands. However, the land was mortgaged in favour of the Primary Agricultural Co-operative Society, Chintalapudi and once it was brought to sale, it loses the character of assigned land. Such transactions are exempted under Section 6 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. In W.P.No.14750 of 2007, this court took the view that once an assigned land was brought to sale by a Co-operative Bank, the prohibition contained under Section 22-A of the

Registration Act does not apply for them. The same was upheld by a Division Bench of this court in W.P.No.950 of 2007.

Hence, the writ petition is allowed, as prayed for.”

Learned Assistant Government Pleader for Revenue does not dispute the above decisions of this court and the applicability of the same to the facts of the present cases.

In view of the facts and circumstances of the case, the *lis* in the present writ petition is squarely covered by the above decisions of this court and hence the same is allowed directing the respondents to delete the subject lands from the list of prohibited properties under Section 22-A(1)(e) of the Registration Act, 1908.

Interlocutory applications pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:30—11—2018
AVS

