

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.42858 OF 2018

ORDER

The case of the petitioner is that the subject land was assigned to one N.Subbamma and another and they mortgaged the lands with the District Co-operative Central Bank, Chittoor and obtained loan. As the borrower failed to repay the loan amount, Bank brought the subject lands for public auction for recovery of the amount, and the petitioner purchased the same in the public auction and he was issued with sale certificate on 14.07.2006. Now the grievance of the petitioner is that when he intended to sell the land purchased by him in the public auction conducted by the Bank, 4th respondent – Sub Registrar, is not receiving and registering the same. Hence, the writ petition.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue.

A Division Bench of this in ***SUB-REGISTRAR, SRIKALAHASTI, CHITTOOR DISTRICT v. K.GURAVAIAH¹***, 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 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:

¹ 2009(2) ALD 250(DB)

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.

In view of the facts and circumstances of the case, the *lis* in the present writ petition is squarely covered by the above judgment of the Division Bench of this court and hence the writ petition is accordingly allowed directing the 4th respondent to receive and register the document presented by the petitioner in respect of the subject property, in accordance with law.

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

A.RAJASHEKER REDDY,J

DATE:27—11—2018

AVS