

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.43857 of 2018

ORDER:

The case of the petitioner is that he is the absolute owner and in possession and enjoyment of an extent of 800 square yards of plot Nos 33, 34 and 24 in Sy.Nos 58-2, 58-3 and 59-1 in Thumukunta Gram Panchayat approved plan lay-out, Hindupur Mandal, Anantapuram District having purchased the same from his predecessors-in-title namely M.B.Aswin Babu and B.N.Ram Prasad under registered sale deed document No.4901/2014, dated 23-06-2014. The petitioner approached the 3rd respondent for market value for the purpose of registration of the subject land and he informed him that it cannot be registered as the subject land is categorized under red dotted land by revenue authorities not to register the same. Hence, the present writ petition is filed seeking a direction to the 4th respondent to entertain and process the document presented in respect of land admeasuring an extent of 800 square yards of plot Nos 33, 34 and 4 in Sy.Nos 58-2, 58-3 and 59-1 in Thumukunta Grampanchayat approved plan layout, Hindupur Mandal, Ananthapuram District for registration without insisting for 'No Objection Certificate' (NOC).

Learned Assistant Government Pleader for Revenue produced written instructions. The relevant portion of the same is as under:

“ During the enquiry the applicant has produced a copy of Form-10, stating that he has purchased the subject lands in Cooperative Auction sale conducted by the Cooperative Deputy Registrar/Officer on Special Duty, ADCC Bank, Anantapuramu as per E.P.No.94/99-2000, dated 03-08-199 for which he is entitled to sale the lands and does not come under Assigned lands. Further he stated that, when he intended to sell the land, the Registration Authorities refused to register the land stated that it is appeared in Prohibited Lands List under Section 22-A(a)(a) of the Registration Act, 1908 in Sl.No.41, 42 and 43 respectively. As per the G.O.255, dated 19.06.1997 of Food and Agriculture Department the Government has omitted the lands which were sold in public auction by the Cooperative Banks for three years from 18.06.1996. Finally he requested to delete the subject lands from Annexure-I of Section 22-A (1) (a) of Registration Act 1908 and permit him to sale the lands.”

Learned counsel for the petitioner submits in similar circumstances, this Court disposed of WP.No.43734 of 2018, dated, 11-12-2018, wherein this Court held as under:

“ A Division Bench of this in ***SUB-REGISTRAR, SRIKALAHASTI, CHITTOOR DISTRICT v. K.GURAVIAH***¹, 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

¹ 2009(2) ALD 250(DB)

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:

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.

. . . .

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.

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.”

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 4th respondent to receive and register the document presented by the petitioner in respect of the subject property, without insisting for NOC, if the same is in order as per provision of the Indian Stamp Act, 1899 and the Registration Act, 1908 and the Rules made there under; and not prohibited for registration by any order/injunction passed by a Court or competent authority. As a sequel to the disposal

of this petition, miscellaneous petitions, if any, pending shall stand closed.

12-12-2018
Nvl

A.RAJASHEKER REDDY,J



