APHC010345782026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 18622 OF 2026

Between:

1. IKL HOME FINANCE, Represented by its Authorized Officer, State Legal Head SRI Mutyala Ravi Kiran S/o Gangaram, Aged about 35 years R/o D.No.40-1-144, M.G.Road, Vijayawada, NTR District A.P

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, Rep.by its Principal Secretary, Stamps and Registration Department, A.P. Secretariat Buildings, Velagapudi.522238

2. The District Registrar, D.No.24-2-13, Near Old Post Ofifce Junction, Visakhapatanm-530001.

3. The Joint subRegistrar, New Colony, Anakapalli-531001.

4. Bharanika Prasad, S/o.Suribabu, D.No.6-13, Makavaram Village, Anakapalli Mandalam-531032.

5. Ainapudi Kanthi Kumar, S/o A.Sitaramaraju, D.No.191/2, Gundla Street,Tummapala, Anakapalli-531032.

...RESPONDENTs

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering the petitioners application dt.06-05-2026 seeking to delete the entry in the revenue records showing in the prohibited property list vide S.No.593/2 of Tummalapala Sivaru, Kottavuru Village, Anakapalli District under Registration Act, as illegal, arbitrary and violative of Articles 14, 21 and 300 A of Constitution of India and consequently direct the respondents to delete the property from the prohibitory list by considering the petitioner's application dt.06-05-2026 and to pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to direct the respondents to delete the property .from the prohibitory list in the revenue records by considering the petitioner's application dt.06-05-2026 Pending disposal of the Writ petition and to pass

Counsel for the Petitioner: SHEIK HASEENA BEGUM

Counsel for the Respondents: GP FOR REGISTRATION AND STAMPS

The Court made the following order:

THE HON'BLE SRI JUSTICE BATTU DEVANAND

&

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

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ORDER: *(Per Hon'ble Sri Justice Battu Devanand)*

1. This Writ Petition is filed questioning the action of the respondents in not considering the petitioner's application dated 06.05.2026 seeking to delete the entry in the revenue records showing in the prohibited property list vide S.No.593/2 of Tummalapala Sivaru, Kottavuru Village, Anakapalli District under Registration Act, as illegal, arbitrary and violative of articles 14, 21 & 300 A of the Constitution of India and consequently sought direction to the respondents to delete the property from the prohibitory list.

2. The petitioner is the Finance Company sanctioned financial assistance to the respondent No.4 against the equitable mortgage of the schedule property vide loan account No.LNVIZ00323-240010389, on depositing of the title deed under registered document No.14814/2024, dated 22.05.2024. The borrower committed default in repayment of the loan and the loan account was classified as Non-Performing Asset. Accordingly, the petitioner issued statutory demand notice under Section 13(2) of SARFAESI Act on 18.11.2025. Since the respondent No.4 failed to comply the demand notice, the petitioner took symbolic possession of the secured asset under Section 13(4) on 31.01.2026 and thereafter conducted public e-auction on 13.03.2026 in pursuance of the Act.

3. During e-auction, the respondent No.5 stood as successful bidder and paid the entire sale consideration and a sale certificate was issued by the petitioner. Accordingly, the sale certificate was presented before the respondent No.3-Joint Sub Registrar for registration. But, the registration authorities orally informed the petitioner that the property was included in the prohibited property list maintained by the revenue department on the ground that an order of attachment before judgment was passed in respect of the secured asset by civil courts in the suits filed by the third party against the owners of the said secured asset. and therefore, the sale certificate could not be registered. Accordingly, they refused to register the sale certificate.

4. Aggrieved by the refusal to register the sale certificate by the respondent No.3, the instant Writ Petition has been filed by the petitioner.

5. The respondent No.3- Joint Sub Registrar filed counter affidavit denying that the petitioner has submitted the sale certificate for registration and submitted that as there was an order of attachment before judgment passed by a civil court against the secured asset and as the copy of the said order was communicated to the office of the respondent No.3, that he refused to register the sale certificate.

6. At the time of hearing of the Writ Petition, the learned counsel for the respondents would submit that the amendment by way of incorporating Section 22C is made in the Registration Act and subsequently, a corresponding Rule 20(c) was also incorporated in the Rules of the

Registration Act directing the Sub-Registrar not to register any documents relating to transfer of immovable property when there is an order of attachment passed whether provisionally or permanently by a civil court and in view of the same, the registration could not be effected.

7. Learned counsel for the petitioner would contend that the amendment came into force with effect from 09.07.2025 and the sale certificates are presented for registration long prior to the date on which the amendment came into force and as such, the said amendment which has no retrospective effect has no application to the present sale certificates and the respondent No.3 committed gross error in refusing registration of the sale certificate and including the said secured asset in the prohibitory list under Section 22A of the Act. Therefore, prayed to direct the respondent No.3 to register the sale certificate.

8. Further, learned counsel for the petitioner would contend that as the mortgage of the secured asset in favour of the petitioner is prior in point of time and as the order of attachment before judgment was passed subsequent to the mortgage and that the mortgage of the secured asset in favour of the petitioner prevails and the order of subsequent attachment before judgment will not come in the way of registering the sale certificates presented by the petitioner. It is also contended that Section 58 of Transfer of Property Act, 1882, protects the prior mortgage of the secured asset and even if there is any subsequent attachment before judgment, it will not come in the way of

registration of the said sale certificate after sale of secured asset in the public auction for realization of the amount due from the principal borrowers.

9. Heard Ms.Shaik Haseena Begum, learned counsel appearing for the petitioner and learned Government Pleader appearing for Stamps and Registration Department. Perused the material available on record.

10. Admittedly**,** the property in question was mortgaged to the petitioner-Finance Company as security for the loan availed by the principal borrower by depositing of title deeds, is not in dispute. Similarly, the fact that the secured asset was sold in the public auction that was conducted by the petitioner in initiating measures under the SARFAESI Act for recovery of the loan amount from the principal borrower and that the auction purchasers have purchased the said property and paid the entire sale consideration and that a sale certificate was issued to them by the petitioner is also absolutely not in dispute.

11. Now, the question that arises for determination is whether the respondents are justified in declining to register the sale certificate on the ground that the order of attachment before judgment subsists that was passed by the civil court or not?

12. It is to be noticed that by the date on which the sale certificate is presented for registration, the amendment to the Registration Act by way of incorporating Section 22C was not in force. It came into effect only on 09.07.2025. The amendment has no retrospective effect. So, it operates only

prospectively. Therefore, at best, the respondents can refuse to register the sale certificates on the ground that an order of attachment before judgment was passed by the civil court by virtue of the said amended provision only to the sale certificate that is presented subsequent to the amendment. It is settled law that the law which was prevailing as on the date of presentation of the sale certificate will prevail and apply to the said sale certificate. As on the date of presenting the sale certificate, there is no provision in the Registration Act which enables the respondents to refuse registration on the ground of subsistence of an order of attachment passed before judgment by a civil court. As per the law that is prevailing at that time, the mortgage which is prior in point of time will prevail over the subsequent order of attachment before judgment passed by the civil court. The legal position in this regard is not *res integra* and the same has been well settled by way of rendering plethora of judicial pronouncements on the point.

13. The erstwhile High Court of Andhra Pradesh had an occasion to deal with the legal position in this regard in the case of ***City Union Bank Limited v. Sub-Registrar, Peddapalli, Karimnagar District and others***[1]**.** In the said case, when the Sub-Registrar refused to register the sale certificate in favour of the auction purchasers on the ground that an order of attachment before judgment is subsisting which was passed by the civil court and when the same is questioned, the High Court after considering the law on the aspect, held that a secured creditor is entitled to succeed and directed the Sub-Registrar to

[1] 2018 SCC Online Hyd 370

register the sale certificate in accordance with the Registration Act. The Court held that as the mortgage in favour of the bank is prior in point of time and as the order of attachment before judgment was passed subsequently, the mortgage in favour of the bank prevails and the Sub-Registrar cannot refuse to register the sale certificate. Again, when the same question came up for consideration before a Coordinate Bench of this Court in W.P.No.18008 of 2024, in the case of ***Karur Vysya Bank Limited v. The State of Andhra Pradesh and others*** and also in W.P.No.44014 of 2018 in the case of ***Andhra Bank, Munagala Branch, rep by its Authorised Officer v. The Commissioner and Inspector General of Registration and Stamps, Hyderabad and others,*** the Courts have held that when the order of attachment is subsequent in point of time to the mortgage, the claim of the respondent cannot take precedence over the mortgage, the claim of the respondent cannot take precedence over the mortgage in favour of the bank and only the respondent can seek for payment of any surplus money, after adjustment of all the dues by the bank.

14. Considering the ratio laid down in the said judgments, this Bench very recently in W.P.No.25977 of 2025 has also taken the same view and directed the Sub-Registrar to register the sale certificate despite subsistence of an order of attachment before judgment passed by the civil court which is subsequent in point of time to the mortgage.

15. Thus, the above legal position as on the date of presentation of the sale certificate in the present case applies to the said sale certificates. Therefore,

the Joint Sub Registrar is absolutely not justified in informing the petitioner that their request to register the sale certificate cannot be acceded to in view of the fact that an order of attachment before judgment is subsisting and also in including the said property in the prohibited list of properties under Section 22A of the Act.

16. Therefore, the Joint Sub Registrar grossly erred in refusing to register the sale certificate presented by the petitioner in favour of the auction purchaser. So, the Writ Petitioner is entitled for the relief claimed in the Writ Petition.

17. Accordingly, the Writ Petition is allowed directing the respondent No.3-Joint Sub Registrar to forthwith register the sale certificate that is presented for registration after collecting the necessary stamp duty and registration expenses.

18. There shall be no order as to costs.

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

JUSTICE BATTU DEVANAND

JUSTICE TUHIN KUMAR GEDELA

Dated: 04.11.2026
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Dated: 04.11.2026
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