

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 12th DAY OF JULY 2004

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION NO. 18218/2000 (CS)

**BETWEEN:**

Chandrakanth  
S/o. Mallappa Nadagoud  
Major, R/Near Kailas Hotel  
At: Jamkhandi  
Bagalkot. .... Petitioner

(By Sri. R.L. Patil, Adv for M/s. Patil and Patil)

**AND:**

1. Asst. Registrar of  
Co-Operative Societies  
At: Jamkhandi, Bagalkot.

2. Sales Officer-cum-co-Operative  
Development Officer,  
At: Jamkhandi, Bagalkot.

3. Vyavasaya Sahakari Sangha Limited  
At: Yallatti, Tq: Jamkhandi  
Dist: Bagalkot, R/by its  
Secretary.

4. Basavanath  
S/o. Shivanagouda Patil  
Major, R/o. Yallatti  
Tq: Jamkhandi, Dist: Bagalkot. ... Respondents

(By Sri. M.H. Sawkar, Adv for R-4  
Sri. M. Keshava Reddy, HCGP for R-1 to R-3)

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This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the order dated 22.4.2000 passed by the KAT, Bangalore, in appeal No.208/98 vide Annexure-H.

This writ petition coming on for dictating orders this day, the Court passed the following:-

**ORDER**

The petitioner has questioned the legality and validity of the order of remand dated 22.4.2000 passed by the KAT in Appeal No.209/98 filed by fourth respondent quashing the impugned order by issuing a writ of certiorari by urging various grounds in support of this petition.


2. This matter was heard at length on merits of the case. This Court was not inclined to grant the relief, after hearing the matter and listed for dictating orders. At that stage, the learned counsel for the petitioner filed the memo dated 27.4.2004 seeking permission to withdraw the writ petition conditionally with liberty to pursue such remedies that are available to him in law, without disclosing what is the alternate remedy available to him. However, the impugned order is liable for judicial review of this Court




alone and no other alternate remedy is available to the petitioner under the provisions of the Act. Further, at the time of making submissions, the learned counsel for the petitioner submitted that the said memo may be treated as memo simplicitor without any condition and has also filed another memo dated 12.7.2004 to that effect.

3. However, having regard to the vast extent of land belonging to the 4<sup>th</sup> respondent, purchased by the petitioner in the public auction held by the 3<sup>rd</sup> respondent and the award passed by the first respondent was set aside, the learned counsel for the parties were directed to assist this Court as to what will be the effect of sale made on the basis of the award which was subsisting as on the date of sale of the property in public auction which award was set aside in the appeal filed by the fourth respondent.

4. The learned counsel for the petitioner has placed reliance upon the decisions reported in AIR 1967 SC 608 at Paragraphs 4, 8 & 24; AIR



1982 SC 989 at Paragraphs 60 and 61; and AIR 1987 ALLAHABAD 86 in support of the proposition that if the sale auction proceedings and the sale are not challenged, the sale must be confirmed notwithstanding the reversal of the judgment and decree after the sale. This Court need not examine as to what are the rights of the 4<sup>th</sup> respondent after the award was set aside in the appeal and remanded the case to the first respondent. Further, whether he is entitled to get back the land sold in the public auction by the 2<sup>nd</sup> respondent at the instance of the 3<sup>rd</sup> respondent or not is the question required to be worked out by the fourth respondent. On careful examination of the facts of this case, it is noticed that vast extent of land is sold for inadequate consideration which appears not legal and valid. The facts of this case regarding the sale shocks the conscious of this Court. The above observations are made in this order, though the same is not required. As the learned counsel for the petitioner has addressed arguments on merits whether the sale is correct or not cannot be gone into by this Court in these proceedings.



In this regard, the 4<sup>th</sup> respondent is at liberty to work out his rights in the appropriate proceedings to get back the possession of the property. Since the petitioner has filed the unconditional memo seeking permission to withdraw the petition, the memo is allowed and the permission sought for by the petitioner is granted.

5. Accordingly, this writ petition is dismissed as withdrawn with the above observation and the 4<sup>th</sup> respondent is given liberty to workout his rights to get back possession of his property, which is sold for inadequate consideration.

Sd/-  
Judge

\*alb/-.