

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8123 of 2015

ORDER :

This Criminal Petition is filed by the Petitioner/1st party under Section 482 Cr.P.C seeking to quash the proceedings under Section 145 Cr.P.C in R.C. No.C/5398/2012, dated 10.10.2014 issued by the 2nd respondent, Mandal Executive Magistrate, Khammam Rural on the report of the S.H.O, Khammam Rural Police Station.

2) Heard the learned counsel for petitioner, who is first party, and the 3rd respondent-State represented by the Public prosecutor before ordering notice to the 1st respondent, the second party of the proceedings issued by the 2nd respondent, Mandal Executive Officer, Khammam Rural and perused the material on record.

3) The Mandal Executive Officer while passing the order under Section 145 Cr.P.C, requiring the petitioner to attend before him on 22.10.2014 for enquiry in relation to the dispute relating to S.No.722/A-1, A-2 and A-3 admeasuring Ac.3-30 guntas of Tallampadu village saying from the dispute, there is likelihood of breach of peace in initiating the proceedings.

4) It is the contention of the learned counsel for the petitioner who is the 1st party that he is the 1st defendant in the suit filed by K.Ramulu since died represented by legal representatives and Kamalamma and Malathi, for the relief of permanent injunction in respect of S.No.722, total three items in

the same survey number shown of Ac.1-08 guntas, Ac.1-08 guntas and Ac.1-07 guntas respectively. It is the submission that but for the factum of sub-divisions not mentioned in the suit it is for the self-same property, Section 145 Cr.P.C proceedings are initiated even the civil Court ceased of the matter, thereby the proceedings are unsustainable.

5) Prima facie, the material falls short for this Court as to the police station and the Executive Magistrate proceedings, rather than staying the matter, the schedule and extents are one and the same that too without filing the tippon as to the existence of sub-division and other revenue records as it is difficult for this Court, to dispose of, thereby before admission and before notice to respondent No.1, second party, the application is disposed of by directing the Mandal Executive Officer as per the letter and spirit of Section 145(4) proviso of the entitlement of the person, if at all wrongfully dispossessed to be put in possession within two months from the report of the police by initiation of the proceedings which indicate the expeditious disposal preferably within two to three months and as the proceedings are of October, 2014 pending for more than 11 months in directing to dispose of within two months from the date of receipt of the order by passing appropriate orders. Further remedies, to the petitioner, on the final order being passed, are left open.

6) With the above observations, the Criminal Petition is disposed of. Miscellaneous petitions pending, if any, in the Criminal Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

23.09.2015
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