

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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CRIMINAL PETITION No.7374 of 2015

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ORDER :

Heard learned counsel for the petitioners/ accused Nos.1 to 4 of B Party and also 6th respondent—State represented by learned public prosecutor before admission and before ordering notice to respondents 1 to 5—de facto complainants, who are of A party in the proceedings dated 15.04.2015 vide Roc.A.393/2015 issued by Tahsildar, Somala, who passed the order based on the report of Mandal Revenue Inspector, Somala vide N.Dis.2014, dated 19.08.2014 based on the representation of J.Subhashini, who is the 1st respondent i.e., one of the A party submitted to the District Collector and from the phone message of the collector referred as references.

2) The order passed is for the instantaneous dispute regarding taking of the possession directed by the Deputy Tahsildar pending enquiry. No doubt, Section 145 (6) Cr.P.C provides for an enquiry as to who is in possession to restore back the possession by the executive Magistrate. It is not instantaneous but for on enquiry, subject to that there is no illegality in the order of *Custodia Legis* in taking possession to handover to whoever being entitled; but for to say having passed the order by the learned executive Magistrate dated 15.04.2015, he should have disposed of the same as the enquiry to be completed is within two (2) months as contemplated by Section 145 (4) Cr.P.C.

3) Having regard to the above, the Criminal petition is disposed of, directing the Mandal Executive Magistrate/ Tahsildar, Somala to enquire forthwith and complete the enquiry within one month from the date of receipt of the order as to who is in possession by the proceedings dated 15.04.2015 and to restore back the possession to such person entitled and to pass such other order as contemplated by

the provisions of Section 145 to 148 Cr.p.C on own merits and after hearing bothsides.

4) Miscellaneous petitions, if any pending in the Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.25.08.2015

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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date:25.08.2015

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