

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.30910 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking a writ of mandamus to declare the order of 2nd respondent in MC No.43/2016/B, dated 24.8.2016 as arbitrary and illegal and consequently, to set aside the same.

The 2nd respondent herein passed the impugned order invoking the provision under Section 145 of Cr.P.C. restraining the petitioners and 4th respondent from entering into the land to an extent of Ac.0.20 cents in Sy.No.201/5 of Penukonda Village, Anantapuram District. The main grievance of the petitioners is that the competent authority ought to have passed the order in the nature of interim by invoking the provision under Section 145(1) Cr.P.C. that too only after conducting due enquiry. Without there being any reference to any law & order problem arising out of the dispute between the parties, the impugned order is passed by the 2nd respondent.

Heard and perused the material available on record.

This Court is of the view that the 2nd respondent has not followed the procedure prescribed under law prior to invoking the provision under Section 145 Cr.P.C. and hence, it is liable to be set aside.

Accordingly, the order dated 24.8.2016 in M.C.No.43/2016/B passed by the 2nd respondent is hereby set aside. However, this order will not stand in the way of 2nd respondent in taking any fresh steps, if the said authority feels any law & problem due to the disputes between the petitioners and 4th respondent in connection with the said property.

The writ petition is disposed of accordingly. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

18.10.2016.
Tsr

RAJA ELANGO,J



