

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.35876 OF 2016

ORDER:

The writ petition is filed by the petitioner seeking a writ of mandamus declaring the action of the first respondent in furnishing the false information to the second respondent by suppressing the pendency of the civil dispute before the competent civil court and consequent action of the second respondent in passing the impugned order, dated 15.10.2016, under Section 145 of the Code of Criminal Procedure (CrPC) directing the parties not to enter into the disputed site, as arbitrary and illegal, and consequently to set aside the said order.

Heard and perused the material.

Learned counsel for the petitioner submits that the petitioner is not involved in any criminal offence and as such, the impugned order, dated 15.10.2016, passed by the second respondent by invoking Section 145 of CrPC., especially when the order also does not disclose any offence committed by the petitioner, is illegal and arbitrary. He further submits that there are civil disputes between the petitioner and other persons and that they have already approached the civil Court and the said case is pending adjudication. The action of the second respondent in passing the impugned order without any enquiry is liable to be set aside and as such, he prays this Court to set aside the impugned order.

This Court is of the view that the second respondent, by invoking Section 145 of CrPC., may pass an interim order and thereafter, he has to conduct enquiry and decide the issue after examining all the parties concerned. Hence, the second respondent is directed to issue notice to the petitioners as well as other persons ('A' party and 'B' party) and conduct enquiry and to pass appropriate order as final order, within one month from the date of receipt of copy of this order.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any shall also stand disposed of.

JUSTICE RAJA ELANGO

01.11.2016
pln

