

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRL.R.C.NO.850 OF 2017

ORDER:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C. challenging the notice, dated 16.12.2016 in PEOC No.G/5369/2016, passed by the Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Mancherial questioning the propriety and legality of the impugned notice.

2. It is the case of the petitioners that they filed civil suit before the civil Court and when the civil suit is pending, the Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Mancherial is not competent to pass such an order exercising power under Section 145 Cr.P.C.

3. This court raised an objection about the maintainability of the revision since the notice is directing the petitioners and others to appear either in person or through pleader on 31.12.2016 at 11 A.M. and to put in written statements of their respective claims in respect of factual possession of the subject matter of the dispute. But, the counsel for the petitioners had drawn the attention of this Court to the directions issued to the Tahsildar, Mancherial to take disputed land in to government custody until further orders. It is contended by the counsel for the petitioners that it is an order affecting the rights of the petitioners, more particularly with regard to taking custody of the property. Therefore, a revision is maintainable.

4. Sri P.Lakshma Reddy, learned counsel for the respondents contended that the respondents are not parties to the civil suit. But, later an application under Order I Rule 10 C.P.C. was filed and allowed and thus, now the petitioners are parties, as per information furnished by the learned counsel for the petitioners.

5. Now, the respondents are parties to the civil suit or not is not a question for consideration at present.

6. The Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Mancherial, in fact requested both the parties to appear either in person or through pleader to furnish their written statements in respect of their claims of actual possession of the subject matter of the dispute. But, incidentally, he passed the impugned order directing the Tahsildar to take possession of the property into government custody until further orders. But, first part is concerned, notice is only directing the parties to appear before the Court and it is not a final order and it is only a notice under Section 145 (1) Cr.P.C. Unless a final order is passed under Section 145(8) Cr.P.C., it cannot be treated as final order amenable to revisional jurisdiction of this Court under Sections 397 and 401 Cr.P.C. But, passing of an order directing the Tahsildar to take possession of the custody of the property until further orders is a matter of serious concern which would affect the rights of the parties.

7. Therefore, that part of the order directing the Tahsildar to take the disputed land into government custody until further orders without affording opportunity to both parties is a grave irregularity committed by the Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Mancherial and file their written statements as directed under Section 145(1) Cr.P.C., passing such an order is illegal. Therefore, the order to the extent of directing the Tahsildar, Mancherial to take the disputed land into government custody until further orders is hereby set aside, while permitting the Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Mancherial to enquire into the matter and pass appropriate orders. However, the order whatsoever passed by the Revenue Divisional Officer-

cum-Sub-Divisional Magistrate, Mancherla is subject to the result of the main suit.

8. With the above directions, the criminal revision case is disposed of. Miscellaneous petitions, if any, pending in this case shall stand closed.

M.SATYANARAYANA MURTHY,J

DATE:07-08-2017
ccm



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