

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.3305 of 2016

ORDER :

The A-Party, out of A and B Parties of the proceedings before the learned Mandal Executive Magistrate-1st respondent, Panasthalam Mandal, Srikakulam District, to the revision, maintained the revision against the said Mandal Executive Magistrate and also the B-Party as respondents, impugning the order of the learned Mandal Executive Magistrate dated 19.12.2016 in M.C.No.34 of 2016, without mentioning any basis even.

Section 145 Cr.P.C. under Chapter X Part (D) consisting of Sections 145 to 148, enables the Mandal Executive Magistrate, where satisfied either from police report or upon other information that a dispute likely to cause a breach of the peace exists concerning any land etc., within his local jurisdiction, to make a written order stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend before his Court in person or through pleader, on a specified date and time, and to put in written statements of their respective claims in respect of the fact of actual possession of the subject property in dispute.

The learned Mandal Executive Magistrate did not mention what is the dispute at all, in passing a prohibitory order against A, B parties, in respect of seven survey numbers, by mentioning the classification land covered by D-Patta, and also by giving respective survey numbers, and extents. It is not even mentioned not only

what is the dispute but also as to who are even claimed in possession. Leave about who are in possession and it is not even mentioned in whose names the D-Form pattas were, and it is not even mentioned the D-Form pattas contain any clause for alienation after 10 years, or, there is any such clause prohibiting total alienation. It is not even mentioned as to the provisions of the Andhra Pradesh Act, 1977 are invoked if at all to resume possession of the property from any alienations made either to restore back to the pattadar or if the alienee is a landless poor to confirm any alienation if for second time by the original patta holders/ assignees. When these are the material aspects, the shipshod order of the learned Mandal Executive Magistrate, as rightly suspended by this Court, while ordering notice before admission, on 29.12.2016, no way sustains.

Having regard to the above, the Criminal Revision Case is allowed by setting aside the impugned order dated 19.12.2016 in M.C.No.34 of 2016 passed by the learned Mandal Executive Magistrate, however, by giving liberty to the learned Mandal Executive Magistrate, to pass a detailed order, with reference to the material, unless the jurisdiction is seized of by a civil Court from any civil dispute pending in relation to the property in question.

Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:21-02-2017
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