

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7097 of 2017

ORDER:

The petitioners 1 to 4 are B-party to the proceedings in Pc.No.320/ B/ 17 dated 04.05.2017 of the Executive Magistrate-cum-Tahsildar of Kosigi Mandal, Kurnool District, Andhra Pradesh.

Heard learned counsel for the petitioners and also learned Public Prosecutor representing the State and perused the grounds urged in the quash petition and the impugned proceedings of the Executive Magistrate dated 04.05.2017.

As per the impugned proceedings, there are three groups, who are fighting for the land in Survey No.318/ A of Ac.6.19 cents classified as "Banjaru" (A.W-Govt.Land) situated at Sathanur Village of Kosigi Mandal and thereby, issued proceedings restraining all the three groups for maintaining law and order, not to enter the land. The same is impugned saying the order is without reasons and *per se* unsustainable by drawing attention of Section 145(i) Cr.P.C.

In fact, a very reading of the provision is clear that subject to the satisfaction of the Executive Magistrate is necessary regarding dispute likely to cause breach of peace exists concerning any land. It is once that subject to satisfaction is there of dispute likely to cause breach of peace, the Executive Magistrate shall pass

as a mandatory imposed such an order required and directing parties to file their written statements and participate with relevant documents. The impugned order speaks by giving time to file written statements and produce relevant documents to decide the same.

Once such is the case, it cannot be said that the very order is without application of mind or with no reasons and even one reason sustained is suffice to say it is a reasoned order, for multiple reasons not required. Once the Executive Magistrate having the subjective satisfaction of law and order problem, the order is sustainable to pass the same. Needless to say, it is not the final order and the parties are entitled to file their written statements with relevant documents and participate to dispose of the same on merits as contemplated by very provisions of Section 145(4) and (5) Cr.P.C.

Accordingly, the Criminal Petition is disposed of without prejudice to the future defences of the petitioners.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 17.08.2017
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