

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11127 OF 2017

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the order dated 11.09.2017 in passed in Lr.No.B/ROR/1437/2017/B/ROR/1438/2017 by the Revenue Divisional Officer, Mahabubnagar under Section 145 Cr.P.C on the basis of sumo-moto case registered on 09.09.2017 in Crime No.59 of 2017 by the Police, Rajapur, in respect of lands in Sy.No.50 to an extent of Ac.9.00 gts situated within the limits of Rajapur Village and Mandal.

2. As per the contents of the order that there are disputes with regard to the possession of land, threat and there is likelihood of breach of peace, the RDO, Rajapur on receipt of report initiated the proceedings.

3. It is the contention of the petitioners that civil proceedings are pending in O.S. No.45 of 2017 on the file of Judicial First Class Magistrate, Jadcherla and filed interlocutory application under Order XXXIX Rules 1 and 2 C.P.C for grant of interim injunction in I.A. No.168 of 2017 and obtained interim injunction order against N.Madhusudhan, who is GPA holder of Smt.V.Anasuya. It is undisputed law that when civil proceedings are pending and an interim order was granted, the proceedings under Section 145 Cr.P.C are not maintainable but survey number of the disputed land and subject matter of civil suit are different. However, the RDO, Rajapur did not follow the procedure prescribed under Clauses 1 to 3 of Section 145 Cr.P.C and passed the impugned order without recording his satisfaction, without affording an opportunity to the parties to appear before the Magistrate and producing necessary evidence in support of

their claims over the property. Thus, the impugned order passed ignoring the mandatory procedure prescribed under clauses 1 to 3 of Section 145 Cr.P.C. Therefore, the order is liable to be set-aside.

4. The order dated 11.09.2017 vide proceedings No.Lr.No.B/ROR/1437/2017/ B/ROR/1438/2017 is hereby set-aside while permitting the RDO, Rajapur to pass appropriate orders after following necessary procedure contemplated under Section 145 Cr.P.C.

5. With the above direction, the Criminal Petition is allowed.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

Dt.20.11.2017
Knl

JUSTICE M. SATYANARAYANA MURTHY



