

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.13394 OF 2018

ORDER:

This writ petition is filed challenging the action of the 3rd respondent in issuing impugned notice dated 09.04.2018, under Section 133 Cr.P.C., directing the petitioner firm to vacate the subject premises within 15 days.

Learned counsel for the petitioner submits that the 3rd respondent straightaway passed the impugned notice for eviction against the petitioner under Section 133 Cr.P.C.; and that Section 133 Cr.P.C provides for conditional order, as such the impugned notice is not in tune with the said section.

Heard Learned Assistant Government Pleader for Revenue, learned Government Pleader for Medical and Health, learned counsel for the 13th respondent and Sri G.Seshadri, learned counsel for respondents 7 and 10.

A perusal of the impugned proceedings goes to show that prior to issuance of the same no notice or any conditional order is passed. In view of the same, the impugned notice appears to be not in consonance with Section 133(1) Cr.P.C. Though, counters are filed by respondents 3, 6 and 12, since the issue that arise for consideration is whether the impugned notice is in consonance with Section 133 Cr.P.C., without going into the

factual aspects, the writ petition is allowed to the extent indicated below.

The impugned order is set aside to the extent of direction given by the 3rd respondent to the petitioner to vacate the poultry farm. The 3rd respondent is directed to issue notice to the petitioner as envisaged under Section 133 (1) Cr.P.C. by fixing time and place within 2 weeks from the date of receipt of a copy of this order and there upon it is open for the petitioner to appear before the 3rd respondent. After considering the objections and compliance of the petitioner, the 3rd respondent shall pass appropriate orders under Section 133 Cr.P.C. If petitioner fails to appear before the 3rd respondent, it is open for the 3rd respondent to pass appropriate orders. However, it goes without saying that petitioner has to maintain proper sanitation to see that the residents of the locality as well as the 13th respondent college are not affected. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

26.07.2018
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