

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.6624 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. questioning the proceeding No.C/1256/2017, dated 04.12.2017 issued by the Executive Magistrate and Tahsildar, Saroornagar Mandal authorizing the Mandal Revenue Inspector/ Mandal Giridawar, Saroornagar to take the custody of the property to prevent the illegal activities and nuisance and also to avoid untoward incidents, if any.

The main contention of the petitioner before this Court is that conditional order is required to be passed against the person causing such obstruction or nuisance or carrying on such trade or occupation or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance etc. within a time to be fixed in order to remove such obstruction etc. But no such time was fixed and no conditional order fixing time was passed by the Executive Magistrate, which is mandatory requirement under Section 133 Cr.P.C and thereby the order is invalid.

Learned Additional Public Prosecutor conceded that no such condition was fixed for removal of nuisance etc.

In view of the submissions made by the Additional Public Prosecutor and learned counsel for the petitioner, the proceedings passed by the Executive Magistrate are contrary to the mandatory requirement under Section 133(f) Cr.P.C. Since the proceedings are not conditional fixing the time for removal of obstruction etc. the proceeding No.C/1256/2017, dated 04.12.2017 issued by the Executive Magistrate and Tahsildar, Saroornagar Mandal authorizing the Mandal Revenue Inspector/ Mandal Giridawar, Saroornagar to take the custody of the property to

prevent the illegal activities and nuisance and also to avoid untoward incidents is hereby quashed. However, this order will not preclude the Mandal Revenue Officer to pass appropriate order in compliance of Section 133(1) and (2) Cr.P.C.

With the above directin, the criminal petition is allowed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

02.07.2018
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