

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.3056 of 2020

ORDER:

The present writ petition is filed seeking a *Writ of Certiorari* to call for the records relating to proceedings in RC.No.B/1576/2019, dated 23.08.2019, issued by the Executive Magistrate and Tahsildar (FAC), Maripeda Mandal, the 2nd respondent herein, by invoking the provisions of Section 145 the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.'), and to declare the same as illegal and in violation of the principles of natural justice.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleaders for Home and Revenue.

3. It is seen from the record that, before the impugned proceedings came to be passed by the 2nd respondent, the 4th respondent in the present writ petition filed a suit seeking perpetual injunction before the learned Senior Civil Judge, Mahabubabad, and the same is numbered as O.S.No.69 of 2019. It is stated that the said suit is filed prior in point of time i.e. on 31.07.2019, while the present impugned proceeding has been issued by the 2nd respondent by exercising powers conferred upon him under Section 145 of Cr.P.C., on 23.08.2019, which is a subsequent event, which would amount to initiation of parallel proceedings in relation to the same property.

4. This Court in similar circumstances had passed an order in W.P.No.24027 of 2019, dated 26.12.2019, whereby it has been held that there cannot be parallel proceedings, and particularly, initiation of

proceedings under Section 145 Cr.P.C. after a civil suit in respect of same property is pending before the civil Court.

5. For reasons alike as were stated in the order, dated 26.12.2019, passed in W.P.No.24027 of 2019 and in terms thereof, the present writ petition is allowed and the impugned proceedings, dated 23.08.2019 passed by the 2nd respondent (the Executive Magistrate and Tahsildar (FAC), Maripeda Mandal) invoking the provisions of Section 145 Cr.P.C. is set aside. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE T.VINOD KUMAR

Date:18.02.2020

GJ

