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C.V. RAJA RAO AND ANR.

v.

MIRZA BASHEER BAIG AND ORS

APRIL 30, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Code of Criminal Procedure, 1973 :*

C

*Sections 145, 146—Injunction orders in favour of petitioners—Police not giving aid—High Court quashing initiation of proceedings—However it directed that some high official of the Survey Department be deputed to inspect the site, localise the suit land—Magistrate to complete the enquiry under S. 146 and pass final order within three months—Held, High Court's directions to be complied with.*

D

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 662 OF 1996.

From the Judgment and Order dated 2.4.91 of the Andhra Pradesh High Court in Crl. P. No. 334 of 1991.

E

A. Raghuvir and T.V. Ratnam for the Appellants.

K. Madhava Reddy, D. Ramakrishna Reddy, Ms. D. Bharathi Reddy and G. Prabhakar for the Respondents.

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The following Order of the Court was delivered :

Leave granted.

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This appeal by special leave arises from the order of the High Court dated April 2, 1991 made in Criminal Application No. 334/91. It is not necessary to narrate in elaboration all the proceedings that have taken place between the parties. Suffice it to state that in respect of the lands bearing Survey No. 202 situated in Lallaguda in Secunderabad of Andhra Pradesh which is now part of the city of Hyderabad, an extent of 4922 sq. yds. is in dispute. Several proceedings have taken place between the parties narration of which is not material. The High Court in quashed

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proceedings of the initiation of the action under sections 145 and 146 of

the Cr. P.C. gave the following directions :

"Since there are some allegations that the police were not giving aid to the petitioners even though there are injunction orders in their favour. I feel it is desirable that some high official of the Survey Department like the Assistant Director of Survey may be directed to inspect the suit land and localise the suit land with the assistance of a Inspector of Survey with reference to the survey records. The learned Magistrate then under Section 146 Cr. P.C. may complete the enquiry expeditiously and pass final orders. Since the parties are fighting out the matter since a long time, the learned Sub-Divisional Magistrate is directed to dispose of the matter expeditiously and pass final orders, preferably within a period of three months from today."

In view of the above directions, it would be necessary that the Survey Department should demarcate the land, localise the same with the assistance of the Inspector of the Survey and Land Record as directed by the High Court and the Magistrate would take action pursuant to the report thereof according to law. In view of the facts in this case, we think that it is not a case warranting interference under Article 136 of the Constitution. We are not expressing any opinion on merit since proceedings are pending at different stages in different courts. Whatever proceedings have been taken place, will be subject to the appropriate orders.

The appeal is accordingly dismissed.

G.N.

Appeal dismissed.