

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION No.25772 of 2015

Between:

M. Rama Devi, W/o. Manohar Naidu,
Aged about 52 years, R/o. Door No.1/151,
Inagaluru Village, O.D. Cheruvu Mandal,
Anantapur District.

.. Petitioner

AND

Sidde Rajamma, W/o. Chalapathi Naidu,
Aged about 43 years, R/o. Door No.2/13,
Inagaluru Village, O.D. Cheruvu Mandal,
Anantapur District & 2 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 14.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | No |
| 3 | Whether His Lordship wish to see the fair copy of the Judgment? | No |

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.25772 of 2015

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ORDER:

The petitioner is the respondent in Election O.P.No.4 of 2013, on the file of the Election Tribunal-cum-Principal Junior Civil Judge, Kadiri. The petitioner filed I.A.No.2 of 2015 in the said Election O.P. praying to hold that since the Election Officer is not made a party, who is necessary party, the Election Petition is bad for non-joinder of Election Officer and, therefore, it is liable to be dismissed and, therefore, sought for dismissal of the O.P. at the threshold without going into the rigour of conducting trial.

2. Having considered the rival submissions, the Court below rejected said plea, whereas the Court below observed that all the contentions including the contention urged by the petitioner on the non-joinder of Election Officer as the respondent to the Election O.P. is left open to be considered during the course of the trial. The Court below placed reliance on the provision contained in Order I Rules 9 and 13 of the Code of Civil Procedure, 1908 (for short, "CPC") and Order VII Rule 11 of CPC and held that the claim made by the petitioner is not covered by the said provisions and, therefore, rejected the petition.

3. Learned counsel for the petitioner contends that

only to a limited extent, the provisions of CPC are applicable for conducting of Election Petitions by the Tribunal as evident from Rule 7 of the A.P. Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 (for short, "the Rules"), and since the whole gamut of the CPC is not attracted, the Tribunal erred in placing reliance on the relevant provisions of the CPC to reject the claim of the petitioner. Learned counsel for the petitioner further contends that in accordance with Rule 3(ii) of the Rules, the entire contents of the Election Petition should be precise and clear and necessary persons should be made as respondents.

4. Assuming that the contention of the learned counsel for the petitioner is correct that the entire gamut of the CPC is not applicable, merely because there is a reference to the provisions of CPC in the order does not mean that the order is vitiated on that ground. Even otherwise the reasoning assigned by the Tribunal that the contention urged by the petitioner need not be looked into at the present stage and it is always open for the petitioner to contest the same issue during the course of the trial cannot be found fault. Thus, I do not see any error, much less patent error warranting interference in the order passed by the Court below. As already noted above, the Tribunal has sufficiently protected the interest of the petitioner and having regard to the same, there is no merit in this writ petition.

5. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if

any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 14th August, 2015

Note: Issue C.C. by 18.08.2015.

(B/o.)
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HON'BLE SRI JUSTICE P.NAVEEN RAO

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