

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

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C.R.P.No.2928 of 2014
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ORDER:

This Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.04-07-2014 in I.A.No.13 of 2014 in Election O.P.No.1 of 2014 of the Election Tribunal –cum- Principal Senior Civil Judge, Rajampet.

2. The petitioner herein is 1st respondent in the said Election Petition. His election as Member of the Badvel Zilla Parishad Territorial Constituency dt.13-05-2014 is questioned in the said O.P.

3. Petitioner has filed counter in the O.P. Trial has commenced and it is stated that the cross examination of P.W.1 is going on.

4. Petitioner filed I.A.No.13/2014 under Section 233 read with 34 of the AP Panchayat Raj Election Tribunals Rules, 1995 to dismiss the Election Petition on the following grounds:

- a) that the election petition served on him and the election petition filed in the Court are not similar and they are totally different and there are correction of dates etc.

- b) the election petitioner on her counsel have not signed on the election petition served on the petitioner and that it is also not a properly verified election petition as contemplated under law.
- c) The original copy of the election O.P. received by the petitioner from the Court did not bear the Court seal and the endorsement of the Head Clerk of the Court to show the date of filing etc.
- d) A copy of the representation dt.26-05-2014 said to have been filed along with the election petition was not served on the petitioner and the postal receipts and acknowledgments are not filed before the Court.
- e) A copy of the postal acknowledgment served on the petitioner is that of the District Collector, Kadapa but not of the Chief Executive Officer, Zilla Parishad, Kadapa.
- f) The 1st respondent did not plead in the election petition that she had sent representation dt.26-05-2014 to 4th respondent therein and her pleading indicates that she sent it only to 3rd respondent.
- g) There is no cause of action for the election petition.

h) The allegation in the election petition that the election petitioner herein had filed her nomination on 19-04-2014 is incorrect.

i) Election petitioner failed to comply with the provision of the Rule 6 of AP Panchayat Raj Electrical Tribunals Rules 1995 and also failed to implead the Returning Officer as a respondent.

5. A counter affidavit has been filed by 1st respondent denying these allegations.

6. By order dt.04-07-2014, the Court below rejected these objections holding that the petitioner had failed to make out a case for rejection of the election petition on the grounds mentioned therein.

7. Questioning the same, this Revision Petition is filed.

8. Learned counsel for the petitioner submits that the Court below has not given any reasons for rejecting the application filed by the petitioner. Therefore, the impugned order be set aside and the matter be remitted back to the Court below for passing a reasoned order.

9. Learned counsel for the 1st respondent/election petitioner however contends that this application as well as Revision Petition are both filed to

drag on the proceedings in the Court below and the objections raised by the petitioner can as well be looked into when the matter is finally heard; and since trial of the election O.P. has already commenced, this Court may not stay the proceedings in the election O.P. or remit the I.A. back to the Court below for fresh consideration.

10. I have noted the submissions of the petitioner.

11. In the impugned order, the Court below has observed that the election O.P. would be decided on merits after considering the oral and documentary evidence adduced on both sides. It no doubt did not deal with each of the objections raised by the petitioner in his application seeking rejection of the election O.P.

12. Be that as it may, I am of the opinion that the contentions raised by the petitioner in the I.A.No.13 of 2014 can as well be looked into and considered by the Tribunal at the time of final hearing of the election O.P. It would not be proper at this stage when trial has commenced, to set aside the impugned order and to remit the matter to the Court below for fresh consideration.

13. Therefore, the Revision Petition is dismissed giving liberty to the petitioner to urge all the points raised by her in I.A.No.13 of 2014 at the time of hearing of the election petition and the Court below is directed to consider the same in accordance with law uninfluenced

by the impugned order or by the order passed by this Court now in this Revision Petition. It is made clear that this Court has not expressed any opinion on any of the points taken by the petitioner. No costs.

14. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S.RAMACHANDRA RAO

Date: 13.02.2015

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