

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.4159 OF 2015

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ORDER:

This revision petition is filed against the order dated 08.09.2015 passed by the VI Additional District and Sessions Judge, Kurnool, in IA.No.204/2014 in EOP No.173/2013, wherein the Court below has dismissed the said EOP which was filed under Order 7, Rule 11(D) and Section 151 of CPC and under Rule 3(2) and 7 of A.P.Panchayatraj Rules, 1995 to reject the main petition as not maintainable on the ground of jurisdiction.

Learned counsel for the petitioner submits that the main EOP No.204/2013 filed by the 1st respondent herein is not maintainable since he prayed to declare the petitioner herein who is the 1st respondent in the main EOP, as disqualified to contest the election and to declare him as duly elected to the post of Sarpanch. He further states that the District Court has no jurisdiction to declare the 1st respondent as elected, by exercising power under Section 22 (1) of the A.P.Panchayatraj Act, 1994; and that it is the Election Tribunal which is competent to set aside the election under Section 233 of the A.P.Panchayatraj Act, 1994. He also submits that the trial court erroneously dismissed IA.No.204/2014 without considering the provisions and without following the dictum laid down by this Court in ***Millimi Lakshmikantham v. Election Tribunal-cum-PDJ, West Godavari at Eluru*** ^[1].

On the other hand learned counsel for the 1st respondent states that the Court below has rightly dismissed the petition filed under Order-7, Rule 11(D) and Sec.151 CPC and under Rule 3(2)

and 7 of A.P.Panchayatraj rules, 1995 with an observation that it would refrain itself from granting any relief beyond the scope of Sec.22 of the A.P.Gram Panchayat Act, while pronouncing the orders in the main OP.

Heard both sides.

The 1st respondent filed E.O.P.No.173/2013, with following prayer;

- i) “ Declare the 1st respondent as disqualified to contest or to hold the office of ‘Sarpanch’ of Kannamadakala Gram Panchayat and accordingly set aside his election;
- ii) Alternately, to declare the petitioner as duly elected to the post of ‘Sarpanch’ of Kannamadakala Gram Panchayat;”

The petitioner relied on **Millimi Lakshmikantham**'s case (cited supra) in support of his contention that the District Court has no jurisdiction to entertain the E.O.P wherein the Division Bench of this Court observed that the District Court has no jurisdiction to grant any relief under Sec.233 of the Act as it is not an Election Tribunal and thereby the allowed the writ appeal and also set aside the order of rejection of petition under Order 7, Rule 11(d) CPC by the District Judge.

In view of the above it is clear that only disqualification incurred under Section 19 to 21 can be decided under Section 22 of the A.P.Gram Panchayat Act, 1994, by the District Court. No doubt in the main EOP, the petitioner/1st respondent herein made prayer for disqualification of 1st respondent/petitioner herein as well as sought declaration that he should be elected as ‘Sarpanch’ in the said elections. But the Court below while dismissing the petition filed under Order 7 Rule 11(D) and Sec.151 of CPC and

under Rule 3(2) and 7 of A.P.Panchayat Raj Rules, 1995, observed as follows;

“When this Court is clothed with the authority to pass an order in pursuance of the Sec.22 of the Act, there is no necessity to reject the petition, because it is filed under Sec.22(1) of the Act only and that what ever may be relief prayed for, the Court need not grant all such reliefs. In the result, the petition is dismissed without costs and with an observation that this Court shall refrain itself from granting any relief beyond the scope of Sec.22 of the A.P.Gram Panchayat Act, while pronouncing the orders in the main OP.”

In view of the above, it is clear that the Court below has observed that the Court while disposing the main OP would only confine to disqualification as per Section 22 of the Act.

In the case relied on by the petitioner’s counsel, the Division Bench allowed the writ appeal setting aside the order of rejection of petition under Order 7 Rule 11(d) CPC by the District Judge. But in the present case the Court below dismissed the petition under Order-7 Rule 11(D) with an observation that the Court would not go beyond the scope of Section 22 of the A.P.Gram Panchayat Raj Act, while pronouncing the orders in the main OP. Learned counsel for the petitioner/1st respondent herein also states that they would not press alternate prayer for declaring the 1st respondent herein as elected ‘Sarpanch’. As such, I do not see any error in the order passed by the Court below.

Accordingly, the Civil Revision Petition is dismissed. No costs.

As a sequel thereto, Miscellaneous Petitions, if any pending, in the CRP shall stand closed.

A.RAJASHEKER REDDY, J

01.10.2015
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^[1] ALT 2008(1) 388