

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.3819 of 2014

DATED 3RD FEBRUARY, 2016

BETWEEN

Muduthanapally Swarajyam

...Petitioner

And

Lokula Padma and ors

..Respondents

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.3819 of 2014

ORDER:

The petitioner herein is the fourth respondent in OP.No.1 of 2013 on the file of the Election Tribunal (Junior Civil Judge) at Mulugu. The said OP was filed challenging declaration of election of the petitioner herein (4th respondent in OP) as null and void and for a direction to respondents 1 to 3 therein to undertake the re-verification and re-counting of all the votes polled on 23.7.2013 for the post of Sarpanch of Jangalapally village, Mulugu Mandal, Warangal District. A counter was filed to the

said OP by respondents 3 and 4 therein.

While so, the fourth respondent therein/petitioner herein filed I.A.No.24 of 2014 seeking to dismiss OP.No.1 of 2013 as it does not disclose any cause of action. A counter was filed to the said interlocutory application stating that the main petition discloses proper cause of action. The Election Tribunal, considering the rival contentions, dismissed the said application by order dated 22.4.2014 observing that the application was filed by the fourth respondent therein without establishing prima facie case and balance of convenience in her favour. It was also observed that the grounds raised by the fourth respondent have to be adjudicated after a full-fledged trial.

The main ground which was raised in the interlocutory application in IA.No.24 of 2014 is that as per the procedure contemplated in the Election Rules. the petitioner in the Election Petition has to file a written application to the Returning Officer raising objections about the counting of votes and in the absence of the same, the main OP is not maintainable.

The main OP was filed challenging the irregularities committed in declaring the results of election conducted to the post of Sarpanch of Jangalapally Gram Panchayat on various grounds including the ground of improper counting of votes. Whether the votes have been properly counted or not has to be decided in the election petition after a full-fledged trial. Merely because the petitioner has not followed the procedure by filing an application to the Returning Officer, the Election Petition cannot be thrown out at threshold. In these circumstances, this Court upholds the order under revision passed in I.A.No.24 of 2014 in OP No.01 of 2013, dated 22.4.2014.

The Civil Revision Petition is dismissed. However, it is made clear that as the OP is of the year 2013, the Election Tribunal shall dispose of the same within a period of six months from the date of receipt of a copy of this order, in accordance with law and after giving due opportunity to all the parties.

Miscellaneous petitions pending consideration if any in the Civil Revision
Petition shall stand closed in consequence. No order as to costs.

JUSTICE A.RAMALINGESWARA RAO

DATED 3rd February, 2016.

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