

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

* * * *

Civil Revision Petition Nos.3451, 3478 and 3491 of 2017

C.R.P.No.3451 of 2017

Between

Yeramaneni Anjamma

...Petitioner

And

Chunchu Leela Kumari and others

.. Respondents.

JUDGMENT PRONOUNCED ON

: 07.08.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : YES
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : NO
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : NO

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.3451, 3478 and 3491 of 2017

Common Order:

These three Civil Revision Petitions are being disposed of by this common order, as they arise out of E.O.P.No.2 of 2013 pending on the file of the Principal Junior Civil Judge, Ongole.

Heard learned counsel for the petitioner and learned Senior Counsel Sri P. Surya Karan Reddy, appearing for Sri I. Koti Reddy, for the first respondent.

C.R.P.Nos.3451 of 2017, 3478 of 2017 and 3491 of 2017 arise out of orders in I.A.No.64 of 2016, I.A.No.66 of 2016 and I.A.No.65 of 2016 respectively in E.O.P.No.2 of 2013. I.A.No.64 of 2016 was filed to reopen the petition for the purpose of further cross-examination of R.W.1 and also marking the endorsements on the valid and invalid ballots, I.A.No.66 of 2016 was filed under Order 18 Rule 17 of CPC to recall RW.1 for the purpose of further cross-examination and also marking the endorsements on the valid and invalid ballots and I.A.No.65 of 2016 was filed under Order 16 Rule 7 of CPC for causing production of the documents and also marking the endorsements on the valid and invalid ballots. These three applications were allowed by the learned Principal Junior Civil Judge, Ongole, by separate orders dated 22.06.2017. The C.R.Ps came up for consideration before this Court on 21.07.2017 and when the learned counsel for the first respondent took notice seeking time, interim stay of all further proceedings was ordered on that day. However, it appears that on 20.07.2017 itself the orders worked out themselves and in view of the same these C.R.Ps have become infructuous. But, the learned counsel for the petitioner argued that in spite of the orders given effect to, the

legality of such orders can be examined by this Court in the present C.R.Ps. In such circumstances, keeping in view the developments in the case, these C.R.Ps are being disposed of.

The first respondent herein is the petitioner in E.O.P.NO.2 of 2013, whereas the petitioner herein is the fifth respondent in the said petition. The first respondent filed the E.O.P.No.2 of 2013 for declaring the elections dated 23.07.2013 for Ulich Grampanchayat as null and void and to declare her as elected candidate for the post of Sarpanch of the said Grampanchayat. The trial in the said case was completed and the arguments on behalf of the petitioner were also completed and it was posted for arguments of the respondents on 25.01.2016. At that stage, these three applications were filed by the first respondent herein on 18.01.2016.

The applications were filed stating that at the time of arguments it was noticed that RW.1 categorically admitted in the cross-examination that he did not conduct the counting as per the A.P. Panchayat Raj (Conduct of Elections) Rules, 2006 and he did not endorse the reasons on the back side of the invalid votes. She further stated that the entire election material is in the safe custody of the third respondent and hence the presence of the third respondent is necessary for causing production of the election record along with valid and invalid votes with seals and for giving evidence before the Court.

A counter was filed to the said applications stating that RW.1 did not admit anything in his examination as alleged by the petitioner in her petitions. The petitioner took number of adjournments for advancing arguments and after closure of the arguments the present petitions were filed. There are no *bona fides* in filing the petitions.

The said applications were allowed on payment of costs by observing as follows:

“A perusal of entire record goes to show that the petitioner and 5th respondent contested as Sarpanch in the elections conducted in the year 2013 and petitioner defeated and the 5th respondent elected as Sarpanch and then the petitioner filed this petition to reject the election of 5th respondent as Sarpanch to Ulchi Gram Panchayat by alleging that the election officers i.e., R1 to R4 did not conduct the election as per procedure. When the petitioner filed the petition under Section 233 of A.P. Panchayat Raj Act and as per rules of A.P. Panchayat Raj 1995. The petitioner must be produced relevant evidence to prove her contention in order to that the petitioner filed this petition for recall of RW.1 for production of election material valid and invalid ballots, so if the petition is allowed and petition reopened no prejudice will be caused to the respondents, however the delay in filing this type of the petition to the compensate by imposing cost because the petitioner is suffer and she has take necessary steps for speedy disposal of main petition but the petitioner used to file petition one by one.

However, in view of the facts and circumstances and in the result this petition is to be allowed on payment of costs of Rs.500/- payable to the advocate's bar association, Ongole. Call on 27.06.2017.”

Challenging the said order, the above C.R.Ps were filed as aforesaid.

Learned counsel for the petitioner submits that the petitions should not have been allowed merely there was no prejudice caused to the respondents and the lower Court erred in allowing the petitions.

Learned Senior Counsel appearing for the first respondent submits that since the orders were carried out, any adjudication would be merely academic and is not warranted in the facts and circumstances of the case. He further submitted that there is no patent error in the orders of the trial Court warranting interference.

I have carefully perused the above order and the averments made in the petitions and counter. After closure of the arguments normally the

petitions should not have been allowed, but the nature of the petitions show that the petitions are intended for calling for the election material and examining RW.1 who was already examined. So far as calling for election material is concerned, there cannot be any objection for anyone, as the material is required for proper adjudication of the election dispute. The further examination of RW.1 might have been done only in order to obviate any possible defence on the material produced and since it is the discretion of the trial Court, this Court is not inclined to interfere with the said order. The order passed by the trial Court, if viewed from another angle, is in furtherance of justice and one should not go by procedural technicalities in a petitions like this. It is natural for the elected candidate to raise objection on the petitions filed by the petitioner and the petitioner taking as much pains as possible to prove his or her case. But the courts would normally look towards justice.

In view of the above, all the three C.R.Ps are dismissed. However, liberty is given to the petitioner to supplement her arguments, if any, on the basis of the evidence now adduced and the same liberty is given to the first respondent also. The counsel for both sides shall complete the arguments before the end of August 2017 and the Election Tribunal shall pronounce its orders on the basis of the material available on record as expeditiously as possible. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending, if any, in these C.R.Ps shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 07th August 2017
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