
(2007) 08 AP CK 0032

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16264 of 2007

Challa Satyanarayana

APPELLANT

Vs

Tadi Lakshmana Rao and Others

RESPONDENT

Date of Decision : 07-08-2007

Acts Referred:

Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads) Rules, 1995 — Rule 3, 7(2)
Andhra Pradesh Panchayat Raj Act, 1994 — Section 19(3), 22(1), 233
Civil Procedure Code, 1908 (CPC) — Order 14 Rule 2

Citation : (2008) 1 ALT 435

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : K. Chidambaram, for the Appellant; S.R. Sanku, for Respondent No. 1, M. Prabhakara Rao for Respondent No. 2, G.P. for Revenue for Respondent Nos. 5 to 8 and V.V. Prabhakar Rao, for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—Petitioner herein successfully contested the election to the office of Sarpanch, Chittavaram village of Narsapuram Mandal in West Godavari District. Alleging that the petitioner incurred disqualification u/s 19(3) of Andhra Pradesh Panchayat Raj Act, 1994 (the Act, for brevity), by reason of having three children, first respondent approached the Election Tribunal-and-Principal Junior Civil Judge, Narsapur, u/s 233 of the Act. In the said election petition being EOP No. 4 of 2006, petitioner filed an application purportedly under Rule 2 of Order XIV of Code of Civil Procedure, 1908 (CPC), to frame preliminary issue, whether Tribunal has jurisdiction to entertain the EOP No. 4 of 2006 only on the ground of disqualification u/s 19(3) of the Act. By impugned order dated 20-6-2007, the Tribunal rejected the said application being I.A. No. 187 of 2007 holding that application u/s 22(1) of the Act as well as Section 233 of the Act read with Rule 3 of Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 (the Rules, for

brevity) is maintainable. Learned Counsel for the petitioner placed reliance on the decision of this Court rendered by my learned Brother Justice P.S. Narayana in D. Sujatha Vs. Chief Executive Officer, Zilla Parishad and Others, .

2. While passing the order, learned Tribunal observed that Order XIV Rule 2 of CPC would be applicable even to election matters. The said observation is directly contra to the Division Bench judgment of this Court in Kummari Ramulu Vs. Gangaram Penta Reddy and Others, , wherein it was held that except the provisions of CPC referred under Rule 7(2) of the Rules, all other provisions and powers of CPC cannot be exercised by the Tribunal. Therefore, the application filed by the petitioner is not maintainable. The impugned order passed by the Tribunal does not warrant interference.

The writ petition, with the above observations, is accordingly dismissed. No costs.