

(1960) 02 KL CK 0043
In the High Court Of Kerala
Case No : O. P. No. 405 of 1957

Kunjumoosa Kunju

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 11-02-1960

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1960) KLJ 578

Hon'ble Judges : S. Velu Pillai, J

Bench : Single Bench

Advocate : T.K. Narayana Pillai N and D. Narayanan Potti, for the Appellant; S. Narayanan Potti, P. Karunakaran Nair and G. Sreedharan Nair for respondents 5, 6 and 7, for the Respondent

Judgement

Velu Pillai, J.—This petition has to be disposed of on a short ground. Respondents 5 and 6, who were said to be members of a Panchayat gave notice of a no-confidence motion against the petitioner, the President of the Panchayat. A meeting to discuss this motion was arranged to take place on August 21, 1957, but had to be adjourned to September 18, 1957. In the meantime, the petitioner filed original petition 361 of 1957 and obtained an order of this court staying the holding of the meeting for ten days. Upon this, a notice was issued on September 19, 1957, that the meeting was adjourned to be held on September 27, 1957 when the duration of the stay order would have expired, unless extended. The question is whether such adjournment was legal or was sanctioned by law. Section 40 of the Travancore-Cochin Panchayats Act, 1950, is the relevant statutory provision. Sub-section (4) of this Section enacts, that the Director of Panchayats or the authorised officer shall preside at the meeting and if within half an hour of the appointed time, any of them is not present, the meeting shall stand adjourned to a time to be notified. Sub-section (5) of the same Section prescribes, that if the Director is unable to preside at the meeting and no officer has been authorised by him, he may adjourn the meeting to such other time as he may appoint, of which notice as prescribed shall be given. Sub-section (6) of

Section 40 reads as follows:

Save as provided in sub-sections (4) and (5), a meeting convened for the purpose of considering a motion under this section shall not, for any reason, be adjourned.

It is quite clear, that the meeting proposed to be convened on September 18, 1957, was not adjourned as provided in sub-sections (4) and (5), but could not take place on account of the stay order from this court. If so, on the plain language of sub-section (6), the meeting could not have been adjourned to another date. The notice convening the meeting to be held on September 27, 1957, was therefore opposed to the terms of sub-section (6) and was illegal. The meeting was not validly convened on that day and the resolution passed, has also no validity.

2. The learned counsel for the respondents relied on *K.S. Venkiteswara Iyer v M.C. Mathai*, 1957 K. L. T. 332, where the validity of a meeting, which was adjourned, not in accordance with sub-sections (4) and (5) of Section 40, was upheld by this court, but this was on a different ground which is not available to the respondents here. The petitioner in the case cited, himself obtained the order for adjournment of the meeting, as ancillary to his petition under Article 226, and he was held to be precluded from questioning the validity of the adjournment. I therefore hold, that the resolution passed at the meeting held on September 27, 1957, impugned in this petition, is liable to be quashed, and it is quashed accordingly. I make no order as to costs.