

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION No.114 of 2023

Between:

Uppalapati Naga Lakshmi Prasanna,
W/o. Venkata Kiran Kumar, Hindu,
aged 42 years, R/o. Pedamuthevi Village,
Movva Mandal, Krishna District.

... Revision Petitioner/Respondent No.1

And

Kakarla Mahalakshmi, W/o. Siva Kumar,
Hindu, aged 55 years, R/o. Pedamuthevi Village,
Movva Mandal, Krishna District and 6 others.

... Respondents/ Respondents 2 to 7

Counsel for the petitioner : Sri Y.Ramatirtha

Counsel for respondents : Sri Tungala Raghu Prasad

ORDER

The 1st respondent in Election O.P. filed the above revision against the order dated 08.12.2022 in I.A.No.331 of 2022 in Election O.P.No.1 of 2021, on the file of the Election Tribunal under A.P. Panchayat Raj Act-Cum-Junior Civil Judge, Movva.

2. The Election O.P was filed under Section 233 of the A.P. Panchayat Raj Act and the Rules framed thereunder for the following reliefs.

- a. Receive the petition, issue process to the Respondents and enquire as per law.
 - b. Send for all the ballot papers which are used in the Election for the post of Sarpanch of the pedamuthevi village of Movva Mandal both valid and invalid and to separate the same as per symbol wise and re-count the same after properly verify the same,
 - c. To re-verify the invalid ballot papers and dealt and decide them as per the counting rules,
 - d. Declare that the Election of the 1st Respondent is null and void,
 - e. Declare the petitioner as elected Sarpanch of the 4th Respondent Gram Panchayat,
 - f. Award costs of the petitioner, and
 - g. Grant such other relief or reliefs as this Hon'ble court deem fit and proper in the circumstances of the case in the interest of justice.
3. Pending the Election O.P., the petitioner filed I.A.No.331 of 2022 under Order VII Rule 14(1) and Section 151 of CPC to receive certain documents.

4. In the affidavit filed in support of the petition it was contended *inter-alia* that the petitioner got certain documents, and those documents are necessary. The petitioner got documents under Right to Information Act and hence application to receive the documents by condoning delay.

5. Revision petitioner being the 1st respondent filed counter and opposed the application.

6. By order dated 08.12.2022, the lower Tribunal allowed the application. Aggrieved by the same, the above revision is filed.

7. Heard Sri Y. Ramathirtha, learned counsel for the petitioner, Sri T. Raghu Prasad, learned counsel appearing for the 1st Respondent.

8. Learned counsel for the petitioner would contend that the documents sought to be filed along with petition, are not relevant to the Election O.P. He also would submit that the documents obtained under the Right to Information Act from Mandal Parishad Development Officer are not relevant to decide the issue between the parties. The Court below without considering these aspects, allowed the application to set aside the order.

9. Learned counsel for the respondent supported the order of lower tribunal.

10. The point for consideration is whether the lower tribunal exceeded its jurisdiction in allowing I.A.No.331 of 2022?

11. It is settled law that mere receiving the documents does not tantamount to either their proof or admission the documents in evidence. When the documents are sought to be admitted, it is always open to the revision petitioner to object for marking all the documents. Receiving of documents is entirely different aspect when compared to the aspects of their relevancy, proof, admissibility and probative value. Whether, the documents received by the petitioner under Right to Information Act from Mandal Parishad Development Officer are inadmissible in evidence or not is to be decided at the time of admission. Trial Court, considering all these aspects allowed the application. This court does not find any illegality in the order passed by the trial Court. Trial court shall decide the feasibility of the documents when they are confronted.

12. Trial Court by considering all those aspects, allowed the interlocutory application. There is no illegality in the order passed by warranting interference from this Court under Article

227 of the Constitution of India and hence, the revision is liable to be dismissed.

13. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

SUBBA REDDY SATTI, J

Date : 24.01.2023
Pmk

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