

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**CIVIL REVISION PETITION No.619 of 2023****ORDER:**

Aggrieved by the non-registration of Interlocutory Application and the order dated 03.02.2023 passed in C.F.R.No.141 of 2023 in Election O.P.No.1 of 2021 on the file of the Election Tribunal (Constituted under A.P.Panchayat Raj Act) cum-Principal Junior Civil Judge, Sattenapalli, the present Civil Revision Petition is filed by the petitioner under Article 227 of the Constitution of India.

2. The petitioner herein is the 1st respondent and the 1st respondent herein is the petitioner and respondent Nos.2 to 5 herein are respondents in Election O.P.No.1 of 2021.

3. The 1st respondent herein filed the said Election O.P. No.1 of 2021 seeking to setting aside the election of petitioner/respondent No.1 therein as null and void, as he has got three children by 01.06.1995 contrary to Section 19 of the Andhra Pradesh Panchayat Raj Act and consequently to declare the petitioner as elected candidate for the post of Sarpanch of Vykuntapuram Panchayat, Amaravathi Mandal, Guntur District. To the said Petition, the petitioner herein filed his counter in the main O.P.

The petitioner herein filed the present Interlocutory Application vide C.F.R No.141 of 2023 dated 06.01.2023 under Order VI Rule 17 C.P.C and Section 151 CPC and the same has been returned by the Court below from time to time for compliance of objection. Aggrieved by the same, the present Civil Revision Petition is filed.

3. Heard Sri Kambhampati Ramesh Babu, learned counsel for the petitioner.

4. Learned counsel for the petitioner, in elaboration to what has been stated in the grounds of revision, contended that in the main Election O.P.No.1 of 2022, the petitioner herein filed his counter and now to incorporate certain information, an amendment application has been filed under Order VI Rule 17 C.P.C, but the same was returned from time to time with objections on the ground that 'how the petition is maintainable at this stage'. In spite of resubmitting the same by duly complying with the objections, the Court below has not numbered the same, as such, the petitioner herein filed the present Civil Revision Petition.

5. Perused the record. The petitioner herein, being the 1st respondent in the Election O.P, filed his counter. After filing counter, Interlocutory application vide CFR No.141 of 2023 has been filed and the same was returned by the Court below initially

on the ground that *'how this petition is maintainable at this stage'*. The petitioner has complied the said objection by stating that *'amendment of pleadings may be sought at any stage of proceedings even though at appellate stage, to determine the real question in controversy.'* The Court below again returned the same and the said return endorsement is extracted hereunder: *'the petitioner is not Hindu but he is Christian as the same was elicited during cross examination of P.W.1, as such, he is not entitled to seek amendment of his counter basing on the evidence elicited from the cross examination of P.W.1 as the same would prejudice the case of the respondent/petitioner.'*

The above return endorsement makes it evident that the Court below sought to decide the merits and demerits of the petition at the threshold of numbering stage itself. The said course adopted by the Court below is not inconsonance with the established principles of law.

The merits of the petition can well be gone into after it is numbered but not at the threshold itself. Hence, this Court is inclined to dispose of the Civil Revision Petition with the following directions.

1. The Election Tribunal (Constituted under AP Panchayat Raj Act) cum-Principal Junior Civil Judge,

Sattenapalli, is hereby directed to receive and number the Interlocutory Application filed by the petitioner herein vide CFR No.141 of 2023, dated 06.01.2023 in Election O.P.No.1 of 2022, if it is otherwise in order, except maintainability of the petition and hear both sides and dispose of on merits, at the earliest, in accordance with law.

2. Registry is directed to return the original Application vide CFR No.141 of 2023 dated 06.01.2023 to the petitioner herein, in order to resubmit the same before the Court below.

6. With the above directions, the Civil Revision Petition is disposed of at the stage of admission. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

14.03.2023

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