

APPELLATE CIVIL.

Before Mr. Justice Devadoss and Mr. Justice Waller.

KANARI VENKATA SIVA RAO AND OTHERS (COUNTER-
PETITIONERS—DEFENDANTS), PETITIONERS

1925,
October 5.

v.

CHITTOORI RAMA KRISTNAYYA (PETITIONER—
PLAINTIFF), RESPONDENT. *

Madras Village Courts Act (I of 1889), sec. 78—Rr. 18 (a) and 64—Election of members of Panchayat Court—Suit in a Civil Court for declaration that election is void—Maintainability of suit—Rules, constituting a special tribunal for deciding validity of elections, whether ultra vires—Application for injunction—Order, whether valid or proper.

A Civil Court has no jurisdiction to entertain a suit to obtain a declaration that the election of certain persons as members of a Panchayat Court is void.

Rules framed by the Governor in Council under section 78 of the Madras Village Courts Act (I of 1889), constituting special tribunals, (namely, Revenue Divisional Officer and the Collector) to inquire into and decide objections to elections, are not *ultra vires*, as the power to constitute a tribunal is a necessary part of the power to regulate the appointments, etc., conferred by the section.

Thimma Reddi v. The Secretary of State, (1924) I.L.R., 47 Mad., 325, referred to.

REVISION PETITION against the order of J. VENKATA RAO, District Munsif of Bezwada, in I.A. No. 208 of 1924 in O.S. No. 98 of 1924.

This Revision Petition arises out of an application for a temporary injunction filed by the plaintiff in a suit instituted by him to obtain a declaration that the election of the defendants as members of a Panchayat Court was void. The District Munsif granted a temporary injunction against the defendants that they should not exercise the powers as members of a Panchayat Court pending disposal of the suit. Against this order, the defendants, who were respondents in the lower Court, preferred this revision petition. It appeared that

* Civil Revision Petition No. 482 of 1924.

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the plaintiff did not prefer any objection petition before the Revenue Divisional Officer, as provided in rule 18 (a) framed under the Act.

L. A. Govindaraghava Ayyar and *P. Satyanarayana Rao* for petitioners.

V. Ramadoss for respondents.

JUDGMENT.

This Revision Petition arises out of a suit filed in the Court of the District Munsif, Bezwada. The object of the suit was to obtain a declaration that the election of the defendants as members of the Panchayat Court of Bezwada was void. Pending the trial of the suit, the plaintiff applied for a temporary injunction restraining the defendants from entering upon their duties as panchayatdars. The District Munsif decided that he had jurisdiction to entertain the suit and proceeded to grant the injunction applied for. The result—but for the interference of this Court—might have been to deprive the citizens of Bezwada for several years of the services of a Panchayat Court. Rule 64 of the rules framed by Government under the Village Courts Act provides fully for the competency of the proceedings of Panchayat Courts despite defects in their constitution or in the qualifications of their members; so that it was as unnecessary as it was undesirable for the Munsif to have passed the order he did.

Apart from that, we are of opinion that he had no jurisdiction to entertain the suit. Rules have been framed by Government under the Act to regulate the election of panchayatdars. Rule 18 (a) lays down that objections to an election shall be made within 7 days after the election to the Revenue Divisional Officer, who shall enquire, and except in certain cases which are to be referred to the Collector, pass orders. Sub-section (b) declares that the orders of the Revenue Divisional Officer and the Collector respectively shall be final and not liable to be contested by suit or otherwise. It does

not appear that the plaintiff made any attempt to comply with these rules. Instead of doing so, he has resorted to a method of contesting the election, which has been expressly excluded by the rules. The law on the subject has been stated in *Thinna Reddi v. The Secretary of State*(1) to which decision one of us was a party. It is this. That when a public body has been created by a statute and that statute empowers Government to frame rules for its working, it is open to Government to create a forum for the purpose of deciding disputes as to elections directed to be carried out under the statute and thereby to exclude the jurisdiction of the ordinary Civil Courts. The same principle is laid down in *Bhaishankar v. The Municipal Corporation of Bombay*(2):

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“Where a special tribunal, out of the ordinary course, is appointed by an Act to determine questions as to rights which are the creation of the Act, then, except so far as otherwise expressly provided or necessarily implied, that tribunal’s jurisdiction to determine those questions is exclusive. It is an essential condition of those rights that they should be determined in the manner prescribed by the Act, to which they owe their existence. In such a case, there is no ouster of the jurisdiction of the ordinary Courts, for they never had any.”

In this case, the jurisdiction of the Courts has been excluded by express words.

It is, of course, argued that the rules framed under section 78 of the Act are *ultra vires*. That section empowers the Governor in Council to make rules to “regulate the appointments or elections of Presidents and other members of the Panchayat Courts.” It is, we think, a necessary part of this power of regulation that Government should appoint a tribunal to enquire into and decide objections to such elections.

The Revision Petition is allowed with costs throughout.

K.R.

(1) (1924) I.L.R., 47 Mad., 325.

(2) (1907) I.L.R., 31 Bom., 604.