

E.L.P.No. 8 of 2016

C.V.KARTHIKEYAN, J.

After hearing both the sides, the matter was reserved on 18.12.2019 for pronouncing Judgment. This Court had the benefit of examining the records in detail.

2. The main ground on which the petitioner had filed the present Election Petition challenging the results declared on 19.05.2016 holding the first respondent as the successful returned candidate for the 159-Kattumannarkovil (SC) Assembly Constituency is that 1(one) postal ballot was rejected for the reason 'no marking' and 101 (one hundred and one) postal ballots were returned for the reason 'voter unidentified'. It is stated that rejection of such postal ballots was wrong and the Returning Officer should have taken those postal ballots into account and should have counted them and then declared the results. It had been pointed out that the margin of difference between the successful candidate / first respondent and the petitioner herein was 87 votes.

3. During the course of trial, the petitioner herein had filed an application to summon as Court witness CW-1 R.Muthukumaraswamy, the then Returning Officer of Kattumannarkovil Assembly Constituency for the Election held on 16.05.2016. The application was allowed and the witness was also examined. However, neither the petitioner nor the first respondent had taken any steps to call upon the said witness to produce the rejected 102 postal ballots.

4. I am of the considered view that a decision can be rendered in the Election Petition only if the Court peruses for its own satisfaction, the 102 postal ballots which have been rejected by the Returning Officer.

5. Delivering a Judgment on merits without examining the same would not be just and fair and even though the parties have deliberately and for reasons only known to them have shirked their responsibility of seeking production of 102 postal ballots, in order to do complete justice, I hold that this Court should peruse the same.

6. This order is passed only to satisfy the mind of the Court with respect to the reasons for rejections of the said 102 postal ballots. Consequently, the Registry is directed to issue summons to CW-1 R.Muthukumaraswamy, son of T.Rajasekaran, No.A-16, Ragamaliga Aparments, Medavakkam, Chennai – 600 073 to appear before this Court on 20.01.2020 at 2.15 p.m., and direct the said witness to produce the 102 postal ballots which had been rejected for the reasons as aforesaid.

7. Call on 20.01.2020 at 2.15 p.m.

03.01.2020

vsg

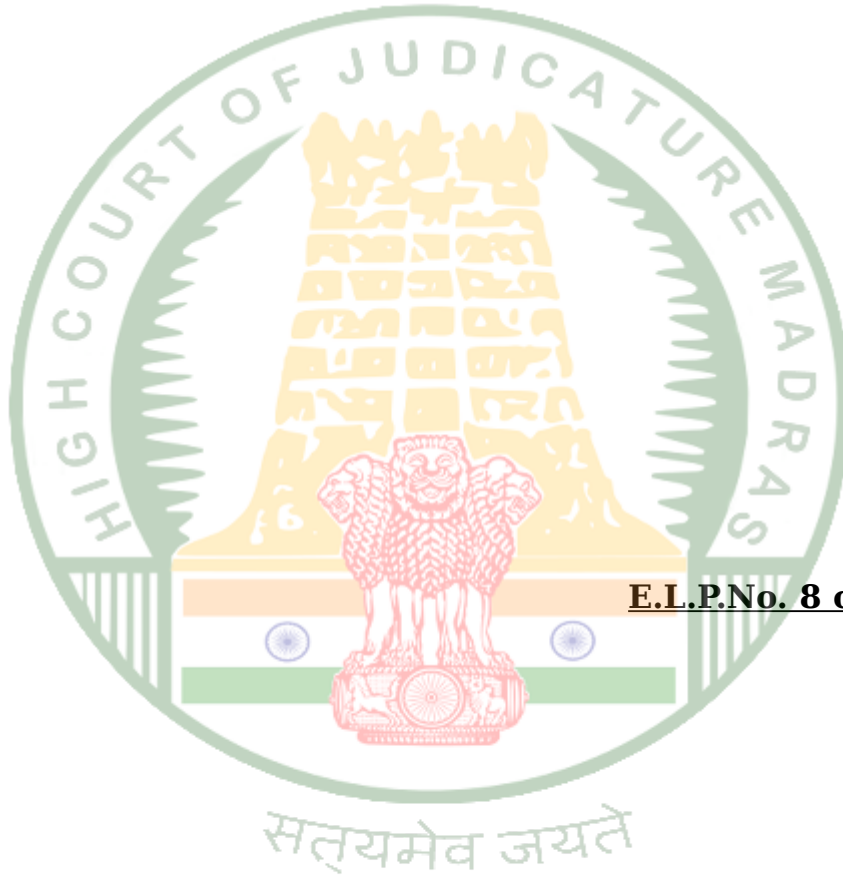
Note: Issue order copy today 03.01.2020.

सत्यमेव जयते

WEB COPY

C.V.KARTHIKEYAN, J.

vsg



E.L.P.No. 8 of 2016

WEB COPY

03.01.2020