

1949

Present : **Basnayake J.**

RATWATTA, Petitioner, *and* BELIGAMMANA, Respondent

APPLICATION FOR THE EXECUTION OF THE DECREE IN ELECTION PETITION
No. 16 OF 1947 (MAWANELLA)

*Election petition—Taxation of costs—Registrar's function cannot be delegated—
Parliamentary Election Petition Rules, 1946, Rule 33.*

The Registrar of the Supreme Court cannot delegate to a Deputy Registrar his function of taxing costs in a Parliamentary election petition.

THIS was an application for the execution of the decree in Election of Petition No. 16 of 1947 (Mawanella).

G. T. Samarawickreme, for petitioner.

November 21, 1949. BASNAYAKE J.—

The successful respondent to the election petition presented by C. R. Beligammana makes this application for the issue of writ against the petitioner's property for the recovery of the balance sum due to him as costs, namely, Rs. 2,775.05. The application avers that the bill of costs has been taxed by the Deputy Registrar of this Court.

Rule 33 of the Parliamentary Election Petition Rules, 1946, provides that the costs shall be taxed by the Registrar. Neither the Ceylon (Parliamentary Elections) Order in Council, 1946, nor the Parliamentary Election Petition Rules, 1946, defines the expression "Registrar" so as to include his deputy. Learned counsel for the applicant has invited my attention to section 3 (3) of the Ceylon (Parliamentary Elections) Order in Council, 1946, which subject to certain exceptions makes the Interpretation Ordinance applicable to the interpretation of the Order-in-Council. On the authority of that provision he argues that under section 11 (c) of the Interpretation Ordinance his deputy may properly perform the functions that devolve on the Registrar of this Court under the Parliamentary Election Petition Rules, 1946. The provision of the Interpretation Ordinance on which learned counsel relies reads :

"(c) for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in place of such chief or superior, it shall be deemed to have been and to be sufficient to prescribe the duty of such chief or superior."

I am unable to agree with the learned counsel that that rule enables an officer charged by statute with certain functions to delegate his functions to any subordinate. That provision, to my mind, enables a deputy or subordinate to perform the duties of his chief or superior when he is acting in place of his chief or superior and lawfully executing the duties that appertain to the office of his chief or superior.

I accordingly direct the applicant to have the bill of costs taxed by the Registrar and thereafter if he wishes to do so to make his application for a writ for any sum due to him over and above that deposited as security for costs.

Application rejected.