

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2026 OF 2017**

Returning Officer & Anr

..Petitioners

Vs.

Mr. Rajkumar B. Dhakane & Anr

..Respondents

Mr. A. P. Kulkarni for the Petitioners

MR. P. B. Shah i/b Mr. K. P. Shah for the Respondent No.1

Mrs. D. S. Mondkar-Hule i/b Mr. S. B. Shetye for the Respondent No.2

Mr. R. B. Dhakane Respondent No.1 present

CORAM : R. M. SAVANT, J.

DATE : 16th FEBRUARY, 2017

P.C.

1 The Learned Counsel for the Petitioner seeks leave to amend so as to annex the copy of the speaking order dated 10-2-2017. Leave granted. Amendment to be carried out forthwith.

2 After arguing for sometime, the Learned Counsel appearing for the Respondent No.1 on instructions of the Respondent No.1 who is personally present in Court and who he identifies, makes a statement that the Respondent No.1 would withdraw the Election Appeal No.1 of 2017 to prosecute the appropriate remedy against the order dated 4-2-2017 as communicated to the Respondent No.1 on 6-2-2017 by the returning officer.

3 In view of the said statement made by the Learned Counsel

appearing for the Respondent No.1, it is not necessary to go into the merits of the impugned order though the exercise of jurisdiction by the Learned District Judge purportedly under the Maharashtra Municipal Councils, Nagar Panchayat Election Rules, 1966, is exfacie questionable in view of the fact that the elections are to a Municipal Corporation established under the Bombay Provincial Municipal Corporation Act, 1948. The impugned order dated 10-2-2017 would accordingly stand set aside. The Petition to stand allowed to the aforesaid extent. It would be open for the Respondent No.1 to adopt such proceedings as are permissible in law to impugn the orders passed by the Returning Officer rejecting the nomination of the Respondent No.1. This Court does not express any opinion as regards the merits of such a challenge.

[R.M.SAVANT, J]