

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1195 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 06.01.2017 passed in I.A. No.1421 of 2016 in E.O.P. No.491 of 2016 on the file of learned IX Additional Chief Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for the petitioner and the learned counsel for respondents.

3. The petitioner/ respondent No.4 in E.O.P. No.491 of 2016 filed I.A. No.1421 of 2016 under Order VII Rules 11 and 10 read with Section 151 C.P.C before the IX Additional Chief Judge, City Civil Court at Hyderabad to reject/ return the election petition due to lack of cause of action and lack of territorial jurisdiction but the Court dismissed the petition on the ground that the Court is competent to entertain and decide the application filed under Section of 75 (1) of Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

4. Aggrieved by the same, the unsuccessful petitioner filed the present revision challenging the said order passed by IX Additional Chief Judge, City Civil Court, Hyderabad on the ground that as per Section 75 of the Act, Chief Judge, City Civil Court, Hyderabad alone is designated as Election Tribunal to try and decide the election disputes under GHMC Act but the Court below did not consider the same in proper perspective and committed an error and therefore,

prayed to return the election petition for presentation before the competent Court notified under Section 75 of GHMC Act.

5. During the course of hearing, learned counsel for the petitioner while reiterating the contentions raised before the Court below not pressed the petition filed for rejection of election petition on the ground that E.O.P. does not disclose cause of action for filing the petition, this Court need not examine rejection of E.O.P. on the said ground.

6. In view of the endorsement of 'not pressed' made by learned counsel for the petitioner, the only question requires to be decided by this Court is whether Chief Judge, City Civil Court alone is the competent authority being a notified authority to entertain and decide the E.O.P filed under the provisions of GHMC Act.

7. Learned counsel for the petitioner obtained clarification from Joint Commissioner (Elections), GHMC vide Lr.No.1240/Eecs/GHMC/2016/389, dated 16.03.2016, that Chief Judge, City Civil Court, Hyderabad, is notified as Election Tribunal vide G.O.M.S. No.109, MA & UD Department, dated 13.02.2002, and will continue as an Election Tribunal to try the election petitions pertaining to the Elections held for Greater Hyderabad Municipal Corporation during February, 2016 under provisio to sub-section 1 of Section 75 of GHMC Act, 1955.

8. Learned counsel for the respondents did not oppose the same since the rights will not effect even if the matter is tried by Chief Judge, City Civil Court, Hyderabad.

9. Section 75 of GHMC Act deals with designating any Court as Election Tribunal. According to Section 75 (1) of the Act, the Government may, for the purpose of providing speedy disposal of election petitions in respect of an election under this Act, appoint any person who is or has been or is eligible to be appointed as a Judge of the High Court as an Election Tribunal (hereinafter referred to as the Tribunal) for such period as may be necessary, for trial of petitions in respect of an election under this Act. Subject to provision annexed to it.

10. In exercise of power conferred under Section 75 (1) of the Act, the Government issued G.O. M.S. No.109, MA & UD Department, dated 13.02.2002 designating Chief Judge, City Civil Court, Hyderabad as Election Tribunal to try the election petitions under GHMC Act. The IX Additional Chief Judge, City Civil Court, Hyderabad is not notified as Election Tribunal by the Chief Judge, by exercising power under Section 75 (1) of GHMC Act is incompetent to decide the election petitions challenging the elections held under the provisions of GHMC Act, 1955. Therefore, the conclusions arrived at by IX Additional Chief Judge, City Civil Court, Hyderabad that the said Court has jurisdiction to entertain the E.O.P for the simple reason that the Chief Judge, City Civil Court, Hyderabad itself made over the matter to that Court, is erroneous.

11. Therefore, this Court finds that the order passed by IX Additional Chief Judge, City Civil Court, Hyderabad in a petition filed under Order VII Rule 10 C.P.C for return of the election petition for presentation before the proper Court, is an error.

12. The petition is presented before the Chief Judge, City Civil Court, Hyderabad but the Chief Judge made over the matter to the IX Additional Chief Judge, City Civil Court, therefore the very institution is before the Chief Judge, but the Chief Judge is not competent to make over the matter to the IX Additional Chief Judge, when the Chief Judge alone is notified as Election Tribunal supra for the purpose of entertaining election petitions and deciding, under Section 75 (1) of GHMC Act vide G.O. Ms. No.109 (supra).

13. Hence, the Chief Judge, City Civil Court, Hyderabad is directed to withdraw the election petition from the IX Additional Chief Judge, City Civil Court, Hyderabad along with connected Election petitions and decide in accordance with law as expeditiously as possible and in any event within six months from the date of receipt of copy of this order.

14. With the above direction, the revision is disposed of.

15. Consequently, Miscellaneous Petitions, if any, pending in this revision shall stand closed. There shall be no order as to costs.

M.SATYANARAYANA MURTHY,J

Date:05.06.2017
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