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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ C.R.P. 59/2013 & CM No.4902/2013 (for stay)

SATBIR SHARMA

..... Petitioner

Through: Mr. S.D. Singh, Mr. Rahul Singh, Mr.
Kamla Prasad and Mr. Vikas
Sachdeva, Advs.

Versus

SATISH JAIN & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.11.2017

1. This Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (CPC) was preferred impugning the order [dated 7th February, 2013 in CS No.60/2012 of the Court of Additional District Judge (ADJ)-2 (North), Delhi] dismissing the application under Order VII Rule 11 of CPC of the petitioner/respondent No.1 in the Election Petition filed by the respondent No.1 herein to impugn the election of the petitioner herein as Municipal Councillor.

2. The petition was entertained and vide *ex-parte* interim order dated 29th April, 2013, while issuing notice of this Revision Petition, the proceedings before the Trial Court were stayed and which order continues to operate.

3. On 12th December, 2013, arguments were heard in this petition along with C.R.P. No.103/2013 titled *Jai Gopal Vs. Raj Kumar Sharma & Ors.* and orders/judgment reserved.

4. Vide order dated 13th May, 2014, this petition was put up again for directions/clarifications and has thereafter been adjourned from time to time.
5. The counsel for the petitioner, on enquiry, states that C.R.P. No.103/2013 along with arguments in this petition were heard on 12th December, 2013, was allowed and that order has been confirmed by the Supreme Court.
6. None appears for the respondents.
7. The counsel for the petitioner states that the period for which the petitioner herein was elected has expired and new elections have already taken place and the respondent No.1 may not be interested in pursuing the Election Petition from which this petition arises.
8. A perusal of the order sheet shows that though none had appeared for the respondent No.1 on 12th December, 2013 when arguments were heard and orders reserved but on most of the subsequent dates, the respondent No.1 has been represented. Merely because the respondent No.1 has chosen to stop appearing for the last few dates does not require this Court to issue fresh notice to the respondent No.1.
9. The counsel for the petitioner states that if the respondent No.1 is not even interested in pursuing the Election Petition, no purpose will be served in addressing arguments before this Court.
10. Owing to stay of proceedings in the Election Petition, the Election Petition from which this petition arises, even if the respondent No.1 had stopped appearing, has remained pending.

11. In this view of the matter, this petition is disposed of as infructuous with liberty to the petitioner to apply for revival thereof, if the respondent No.1 is found to be pursuing the Election Petition from which this petition arose.

12. In view of the above, the interim order of stay of proceedings in the Election Petition is vacated.

13. The learned ADJ before whom the Election Petition is pending to, if the respondent No.1 does not appear, pass appropriate orders in the Election Petition.

No costs.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 09, 2017
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