

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1924 OF 2018

Vilas Chandu Kamble

.. Petitioner

V/s.

Dasharath Sankataprasad Yadav

.. Respondent

Mr.Sandesh D. Patil I/b Mr.P.S.Gole for the petitioner

Mr.S.M.Oak I/b Mr.Akshay P. Deshpande for the respondent no.1

Mr.Rohit P. Sakhdeo for the respondent no.2

Mr..A.B.Kadam, A.G.P. for the respondent no.15

CORAM: K.K. TATED, J

DATED : NOVEMBER 26, 2018

P.C. :

1 Heard.

2 By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 30.10.2017 passed by 6th Joint Civil Judge, Senior Division, Thane below Exhibit-14 in Election Petition No.19 of 2017 rejecting Petitioner's Application dated 28.04.2017 for dismissal of the election petition.

3 The learned counsel for the Petitioner submits that

admittedly in the present proceedings, the result of the municipal Election was declared on 23.02.2017. He submits that under section 16(1) of the Mumbai Municipal Corporation Act, 1888 limitation period for filing the election petition is 10 days after the result of the election has been declared. He submits that in the present case though the results were declared on 23.02.2017 Respondent no.1 filed Election Petition No.19 of 2017 on 06.03.2017 though the last date was 05.03.2017. He submits that the Trial Court failed to consider the fact that neither the limitation act nor general clauses act is applicable in the present petition. Hence, election petition is required to be dismissed as barred by law of limitation.

4 It is to be noted that in the present proceedings, the Trial Court recorded in paragraph 6 and 9 of the impugned order that the election results were declared on 23.02.2017 and the last date for filing the election petition under section 16(1) of the said act was 05.03.2017. 05.03.2017 was a Sunday and therefore election petition filed by Respondent no.1 on 06.03.2017 i.e. on next date Monday is within time.

5 In view of these findings, I do not find any substance in the present Writ Petition.

6 Hence, Writ Petition stands rejected.

7 No order as to costs.

(K.K. TATED, J.)