

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NOs.628, 672 & 903 OF 2018

COMMON ORDER:

These civil revision petitions are filed under Article 227 of the Constitution of India, challenging the common order in I.A.No.4926, 4927 & 4863 of 2017 in Election O.P.No.491 of 2016 dated 03.01.2018 passed by the Chief Judge, City Civil Court, Hyderabad, whereby, the petition filed under Order XI Rule 14 C.P.C was dismissed.

C.R.P.No.672 of 2018 is filed against the dismissal of I.A.No. 4927 of 2017 which is filed under Order XI Rule 14 C.P.C by the petitioner requesting the Court to direct the respondents 2,3 & 4 to produce the nomination paper of the 1st respondent along with the affidavit, declaration, caste certificate, aadhar card and other documents submitted by her. The respondents disputed the claim of the petitioner by filing independent counter and denied the material allegations and raised specific contention that she was present in the Court and gave evidence by removing her Burkha and the contention that the identity in public is incorrect and the identity cannot be disputed. Further, it was stated that the dispute was with regard to respondent no.4 as Ward Member and the relevant papers have been already produced by the GHMC. Since, her election is not disputed, there is no necessity to produce the nomination papers along with the affidavit and other declarations.

C.R.P.No.628 of 2018 is filed against the order in I.A.No.4926 of 2017 which is filed under Order XI Rule 14 C.P.C by the petitioner requesting to direct the first respondent to produce

her documents viz., (i) Photo identity (ii) Aadhar Card (iii) Ration Card (iv) Driving License (v) Pan Card and (vi) Passport. The first respondent filed counter in I.A.No.4926 of 2017 contending that there is no factual foundation as to why the petitioner is requesting production of the documents and further stated that whether she is contesting party or not is known based on the list of contestants, which is already fled by her and marked as Ex.P-15.

C.R.P.No.903 of 2018 is filed against the order in I.A.No.4863 of 2017 which is filed under Section 151 CPC by the petitioner, requesting the Court to recall the docket order dated 03.10.2017 marking the Exs.P-1 to P-22 and Exs.X-1 and X-1a with the consent and record the objection.

All the three interlocutory applications i.e. I.A.No.4926, 4927 & 4863 of 2017 in Election O.P.No.491 of 2016 were dismissed by the Chief Judge, City Civil Court, Hyderabad on 03.01.2018. Aggrieved by the said order, the present civil revision petitions are filed on various grounds.

During hearing, the first respondent-Sameena Begum filed an affidavit and produced Photostat copies of the aadhar card and voter ID card for proper identification. But, other documents were not produced. Learned counsel for the first respondent contended that these two documents are sufficient to identify the first respondent. Learned counsel informed to the Court that the other documents sought to be produced by the first respondent were already marked as exhibits i.e. P-1 to P-22 and therefore, there is no reason to summon those documents from the third respondent.

I.A.No.4863 of 2017 is filed only for limited purpose of demarking the documents by exercising power under Section 151

CPC. In view of the affidavit filed by the first respondent-Sameena Begum, annexing the copies of aadhar card and voter ID card, there is no need to issue a direction to the first respondent to produce the other documents, since the dispute is only with regard to her identity. Therefore, the documents produced by the first respondent viz., Aadhar Card and Voter ID Card are sufficient and no further direction need be issued.

The other documents sought to be summoned are already marked as Exs.P-1 to P-22 and Exs.X-1 and X-1a. Ex.P-22 is the Gazette notification and the documents were already marked as exhibits on production by State Election Commissioner under GHMC Act. Hence, no further direction need be issued to any of the respondents to produce those documents, more particularly to respondent no.3, since the documents are already on record and marked as exhibits.

With regard to the aspect of marking the documents and record objections, the said petition is filed for the specific purpose of demarking the documents and reject the documents which are already marked. The reason for claiming such relief is that, the petitioner did not give consent for marking those documents, and requested this Court to mark the documents, subject to objection. The question of rejection of documents under Section 151 CPC does not arise, as there is a specific provision under C.P.C i.e. Order XIII Rule 3 C.P.C, which deals with rejection of irrelevant or inadmissible documents and according to it, the Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

But, in the present case, it was not the contention that these documents are irrelevant or inadmissible atleast to exercise jurisdiction under Section XIII Rule 3 C.P.C to reject the documents which are already marked. The admissibility is not actually questioned in the entire petition. Therefore, the documents which are already marked as Exs.P-1 to P-22 and Ex.X-1 & X-1a cannot be rejected or demarked or record the objection raised by the learned counsel for the petitioner and mark the documents subject to objection.

Therefore, the common order passed by the Court below clearly indicates that the petitioner was readily present in the Court at the time of marking documents. Hence, the order passed by the Court below does not suffer from any legal infirmity, warranting interference of this Court under Article 227 of the Constitution of India, since the jurisdiction of this Court is limited.

Therefore, it is not a fit case to interfere with the order passed by the Trial Court by exercising power under Article 227 of the Constitution of India, which is limited. Article 227 of Constitution of India deals with power of superintendence by the High Court over all Subordinate Court and Tribunals. The power of superintendence conferred upon the High Court by Article 227 is not confined to administrative superintendence only, but includes the power of judicial revision also even where no appeal or revision lies to the High Court under the ordinary law, rather power under this Article is wider than that of Article 226 in the sense that it is not subject to those technicalities of procedure or traditional fetters which are to be found in certiorari jurisdiction and such

power can also be exercised suo motu. It is a well settled principle that the High Court can exercise supervisory power under Article 227 of Constitution of India, as held by the Apex Court in **State (N.C.T. Of Delhi) v. Navjot Sandhu@ Afsan Guru**¹ that under Article 227 of Constitution of India the High Court can interfere with the directions of the Subordinate Courts.

In view of the law laid down by the Apex Court, this Court cannot exercise its power under Article 227 of the Constitution of India though the order is wrong, since the power can be exercised only to keep the subordinate Courts and Tribunals within its bounds.

This Court while exercising power under Article 227 can exercise its discretion to interfere in the following circumstances:

- a) When the inferior court assumes jurisdiction erroneously in excess of power.
- b) When refused to exercise jurisdiction.
- c) When found an error of law apparent on the face of record.
- d) Violated principles of natural justice.
- e) Arbitrary or capricious exercise of authority or discretion.
- f) Arriving at a finding which is perverse or based on no material.
- g) A patent or flagrant error in procedure.
- h) Order resulting in manifest injustice.
- i) Error both on facts and law or even otherwise.

In the present facts of the case, none of the grounds permits the Court to exercise power under Article 227 of the Constitution of India are found. Therefore, in the absence of any manifest error, it is difficult to refrain the order passed by the Trial Court. In view of my foregoing discussion, I find no reason to set-aside the order passed by the Court below.

¹ (34)2005 (3) ALT (CrI.) 125 (SC)

In the result, all the civil revision petitions are dismissed, as the first respondent produced Aadhar Card and Voter ID Card along with the affidavit and the documents sought to be marked are already on record and they were marked as Exs.P-1 to P-22 and Exs.X-1 and X-1a.

However, the Chief Judge, City Civil Court, Hyderabad is directed to dispose of the Election O.P.No.491 of 2016, as expeditiously as possible, in any event, not later than three months from the date of receipt of copy of this order.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:27.02.2018

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