

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1426 OF 2018

ORDER:

This revision petition is filed, under Article 227 of the Constitution of India, challenging the order dated 31.01.2018 in I.A. No.4791 of 2017 in El.O.P. No.605 of 2016 passed by the Chief Judge, City Civil Court, Hyderabad, whereby the learned Chief Judge dismissed the petition filed under Rule 11(a) of Order VII read with 151 of the Code of Civil Procedure (for short 'CPC').

It is the contention of the petitioners that the election petition filed by the first respondent herein did not disclose cause of action and that the relief claimed in the main suit is that the first petitioner herein was blessed with three children, it is a disqualification to contest as Corporator under the GHMC Act, while alleging that the petitioners manipulated the records maintaining by GHMC regarding the names of his brother and sister as parents of his third child and that the first respondent intends to take steps to collect information from the respective hospitals and municipal records to avoid unnecessary delay to file election petition, to declare the election of the first petitioner is null and void.

The main contention of the petitioners before this Court is that the first respondent herein did not disclose cause of action for filing election petition, challenging the election of the first petitioner herein/ contested candidate is not based on any fraud or fabrication of any document. But the first respondent himself admitted in paragraph 7 of the election petition that the first petitioner herein deliberately given wrong particulars of the third

child in the birth certificate and intentionally mentioned the respondents 13 and 14 names in the records as they are parents of his third child. The said manipulation done by the first petitioner is only to contest the GHMC elections by suppressing the true facts and violating the provisions. It is further submitted that the first respondent taking steps for getting the details of records of the said third child from the respective hospitals and municipal records. It is specifically mentioned that the cause of action arose on 02.02.2016 when the election was conducted and when the first petitioner furnished false declaration regarding the number of children etc.

When the matter is coming for cross-examination of P.W.1, the first respondent herein did not take any steps to produce any document allegedly manipulated by the first petitioner herein and therefore there is no cause of action to file the election petition and prayed to reject the election petition at the threshold.

The first respondent disputed the same by filing counter denying the contentions raised by the counsel for the petitioners while asserting that the first petitioner herein manipulated the records and furnished false information to the returning officer at the time of filing nomination about the number of children he blessed with and that it is suffice to declare the election is void, it disqualified the returned candidate in the election and therefore, such question has to be decided only at the end of trial and at this stage, it cannot be decided and prayed for dismissal of the petition.

Upon hearing argument of both the counsel, the Chairman - cum-Chief Judge, City Civil Court, Hyderabad, passed the order impugned in this revision while observing that the document can

be produced in course of time, the petition at this stage is not maintainable. Though the order of the court below is appears to be erroneous, still the election petition did not disclose cause of action for filing the petition, since specific allegation is made at paragraph 7 of the petition that the petitioners herein manipulated the record and filed a false declaration. If false declaration is filed as to the children, then it is a disqualification under the provisions of GHMC Act, to contest the election and whether the first petitioner manipulated the records or not is a question of fact to be decided only after adducing evidence by both the parties. If the first petitioner failed to adduce evidence in support of his contention, he will liable for consequences for such false declaration and therefore, at this stage it is difficult to decide whether the first petitioner furnished false information as to the number of children he was blessed with, since the specific allegation made in the petition itself that he manipulated the record and such question is a disputed question of fact and consequently the election petition cannot be rejected exercising power under Rule 11(a) of Order VII of CPC at the threshold, since the election petition disclosed the cause of action as on today.

Therefore, I find no merit in the contention raised by the counsel for the petitioners and the petition is devoid of merits and is liable to be dismissed.

In the result, the petition is dismissed. However, it is left open to the petitioners to raise all the contentions with regard to information furnished by the first petitioner is genuine and information regarding the number of children he blessed with prior to nomination.

With the above observation, the civil revision petition is dismissed at the stage of admission. No costs.

Miscellaneous Petitions, if any, pending in this revision shall stand closed.

M.SATYANARAYANA MURTHY, J

Date:05.03.2018
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