

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.7025 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the order dated 22.11.2017 passed in I.A.No.203 of 2016 in O.P.No.18 of 2015 on the file of the Cooperative Tribunal at Hyderabad.

2. Heard the learned counsel appearing for both the parties.

3. A perusal of the record reveals that respondents No.1 to 6 have filed O.P.No.18 of 2015 challenging the election of petitioners No.11 to 15. While the things stood thus, during the course of trial, Exs.A1 to A5 were marked on behalf of respondents No.1 to 6. Feeling aggrieved by the marking of documents, petitioner No.6 herein/respondent No.10 in the election O.P. filed CRP No.5382 of 2016. This Court disposed of the said revision petition on 30.12.2016 with the following direction:

“In the result, the revision petition is disposed of directing the Tribunal to take up for hearing and disposal the interlocutory application said to have been filed by the 10th respondent in the OP for the relief of eschewing from consideration Exs.A1 to A5 and dispose of the said interlocutory application in strict accordance with the procedure established by law, however, after giving an opportunity to petitioners to file their counter.”

4. By the time of disposal of CRP No.5382 of 2016 by this Court, I.A.No.203 of 2016 was pending before the Cooperative Tribunal. The Cooperative Tribunal passed the order on 22.11.2017 dismissing the I.A.No.203 of 2016. Hence, the revision.

5. It is the contention of the learned counsel for the petitioners that originally I.A.No.203 of 2016 was posted to 28.12.2017. But for one reason or the other, the Tribunal without notice to respondent No.10, passed the orders on 22.11.2017 by making entries in 'A' diary. In view of the contentions raised by the learned counsel for the petitioners, this Court called for the 'A' diary of the Tribunal. On 27.04.2018, this Court made the following observation after perusing 'A' diary of the Tribunal:

“Having regard to the said submission, 'A' diary is called for from the Court below and when the court business, that was held on 07.11.2017 is perused from the 'A' diary, it is evident that against 'O.P.18/15 & I.A.203/16', there is a correction in the date correcting it to 22.11.2017”.

6. A perusal of the observation made by this Court clearly indicates that I.A.No.203 of 2016 was disposed of without giving any opportunity to the petitioners. It is not the case of the respondents that I.A.No.203 of 2016 was advanced from 28.12.2017 to 22.11.2017 after issuance of proper notice to the petitioners. The fact remains that the Tribunal passed the orders on 22.11.2017 in I.A.No.203 of 2016 without giving

any opportunity to the petitioners. Any order passed by the Tribunal without giving an opportunity to the parties to the proceedings, more particularly, to the petitioners is not sustainable.

7. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to allow the revision by setting aside the impugned order.

8. In the result, the C.R.P. is allowed setting aside the order dated 22.11.2017 in I.A.No.203 of 2016 in O.P.No.18 of 2015 on the file of the Cooperative Tribunal, at Hyderabad. The Tribunal is hereby directed to dispose of I.A.No.203 of 2016 after affording a reasonable opportunity to both parties. The Tribunal is further directed to dispose of O.P.No.18 of 2015 as expeditiously as possible. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

17th July 2018

Rns

