

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

REVIEW APPLICATION NO.241 OF 2019 IN
CIVIL REVISION APPLICATION NO.10 OF 2019

Manjula Ananda Patil ... APPLICANT

VERSUS

Sayabai Gulab Patil & others ... RESPONDENTS

.....
Shri A.J. Patil, Advocate for applicant
.....

CORAM: R.G. AVACHAT, J.

Date of reserving order : 18th November, 2019

Date of pronouncing order : 13th December, 2019

PER COURT :

The applicant, original respondent No.5, has preferred this application for review of the judgment and order passed in civil Revision Application No.10/2019 on 10.10.2019. By the order impugned herein, the Civil Revision Application was allowed, setting aside the order dated 19.9.2018 passed by Court of Civil Judge, Junior Division, Parola in election Petition No.1/2018.

2. Heard Mr. Patil, learned counsel for the review petitioner. The respondent No.1 filed Grampanchayat Election Petition No.1/2018, challenging the applicant's election as a Sarpanch of the village. The applicant preferred an application under Order VII Rule 11 of the Code of Civil Procedure, contending that the Election Petition does not disclose cause of action and is, therefore, liable to be rejected. The learned Judge was pleased to allow the said application. The original petitioner (respondent No.1 herein), therefore, preferred Civil Revision Application to this Court. The same was allowed vide order dated 10.10.2019, holding that provisions of Order VII Rule 11 have no application to a Grampanchayat Election Petition. It has also been held that the petition does disclose cause of action.

3. Mr. A.J. Patil, learned counsel would submit that, provisions of Order VII Rule 11 of the Civil Procedure Code are very much applicable to Grampanchayat Election Petition. Section 141 of the Code of Civil Procedure provides that, the procedure provided in this Code in regard to suit shall be followed, as far as it can be made applicable, in all proceedings in any Court of Civil jurisdiction. The Civil Revision Application itself was not maintainable. The Maharashtra Village Panchayats Act does not provide remedy

of appeal or revision against the decision passed in Election Petition. Person aggrieved by the order under Village Panchayat Act can only file a Writ Petition under Article 226 or 227 of the Constitution of India. The Election Petition did not disclose cause of action. The cause of action to file Election Petition by respondent No.1 is mentioned as corrupt practice. Section 15(6)(a) of the Village Panchayats Act defines the term 'corrupt practice'. The applicant did not indulge in any such activity. Learned counsel would further submit that, this Court ought to have relied upon the judgments referred to and relied upon by the Court of Civil Judge, Junior Division in its order dated 19.9.2018.

4. Scope of review application is very limited. In review, the applicant is expected to point out an error apparent on record. After having gone through Section 15 of the Maharashtra Village Panchayats Act, this Court observed that, on presentation of an Election Petition, the Court is expected to make enquiry into it. This Court observed that, Order VII Rule 11 of the Civil Procedure Code has, therefore, no application. No citation/ case law has been relied upon in support of his case by the applicant before this Court. Objection as to non-maintainability of revision application ought to have been raised during hearing thereof.

5. So far as regards cause of action is concerned, this Court has observed that, the Election Petition does disclose cause of action. It was the case of the petitioner therein that, 5 / 6 voters, after having cast vote in an election of the Panchayat of a neighbouring village, again cast their votes in favour of the applicant. Needless to mention that the respondent no.1 was defeated by a margin of two votes. Whether after having cast the vote by concerned voter, is he allowed to cast his vote once again in another election at the same time itself is a matter indicating itself to be a cause of action for filing the election petition.

6. In view of the above, no case has been made out for review of the order dated 10.10.2019, passed in Civil Revision Application no.10/2019. The Review Application thus fails. It is dismissed.

(R.G. AVACHAT, J.)

fmp/-