

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P(NPD) No.4306 of 2013

Mahesh

... Petitioner/Petitioner

Vs.

1. Ramesh

2. Raju

3. The Returning Officer

... Respondents/Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 10.10.2012 passed in Election O.P.No.176 of 2011, on the file of the Principal District Judge, District Court, Cuddalore.

For Petitioner : M/s.K.Moorthy

For Respondents : M/s.R.Sunil Kumar

सत्यमेव जयते

ORDER

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This Civil Revision Petition has been filed challenging the order passed by the court below in challenging the election under Section 258 and 259 of the Tamil Nadu Panchayat Act r/w Rule 122 of The Tamil Nadu Panchayat Rules and to set aside the election of first

respondent as the President of Thennampakkam Village Panchayat, and to declare the petitioner as the duly elected candidate.

2. The brief facts leading to filing the revision petition is as follows:

The President Election of Thennampakkam Village Panchayat was held on 19.10.2011, in which the petitioner and respondents 1 and 2 contested in the above election. The counting of votes was not properly and legally done. Some votes casted in favour of the petitioner were declared invalid and patently invalid votes said to have been cast in favour of the first respondent were taken as valid votes. Further, though totally 983 votes were held, the website reports indicated only 982 votes. Hence, challenging the election the present Original Petition in O.P.No.176 of 2011 has been filed. The respondents denied the entire allegations.

3. The learned Principal District Judge, Cuddalore, considered the entire aspect and taking into the fact, that the petitioner has not filed the representation immediately for re-counting and he has made allegation only after results were declared. Further, the Court below had taken note of the fact, that there was no corrupt

practice whatsoever established in the election, dismissed the application filed by the petitioner, as against which the present Civil Revision Petition has been filed.

4. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the first respondent and perused the order of the trial Court.

5. It is well settled that as per the Tamil Nadu Panchayat Election Rules, while challenging the election, on the ground of improper counting, a representation ought to have been given by the person challenge the election for re-counting before the election result is being declared. The trial Court has found that no representation whatsoever has been given by the petitioner and the same was given only after results were declared.

6. Further, there was no evidence whatsoever adduced to show that there was corrupt practice. As long as the counting was done and there was no corrupt practice pleaded and proved. Since, the revision petitioner has not given any representation for re-counting of votes before the election results being declared, re-

N.SATHISH KUMAR, J.

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counting cannot be ordered. Further, contention that one ballot paper was missing was also not established. Further no complaint whatsoever has been made by the petitioner after coming to know the alleged missing of the ballot paper in the manner known to law.

7. Hence, I do not find any illegality or infirmity in the order passed by the trial Court. Accordingly, this Civil Revision Petition is dismissed. No costs.

25.02.2019

Index: Yes/No
Speaking/ Non-Speaking
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To

1. The Principal District Judge, District Court, Cuddalore.
2. The Section Officer, VR Section, Madras High Court.

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