

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY CIVIL ORIGINAL JURISDICTION)

DATED : 26-11-2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

O.A.No.1001 of 2019
in
ELP.No.5 of 2019

1.The Chief Election Commissioner,
O/o.Election Commission of India,
Nirvachan Sadan,
Ashoka Road,
New Delhi-110 001.

2.The Returning Officer,
No.36, Thoothukudi Constituency,
O/o.District Collector,
Korampallam,
Thoothukudi-628 101.

.. Applicants/R-2 and R-3

Vs.

1.Mrs.Tamilisai Soundararajan
W/o.Mr.Soundararajan,
No.7, Logaiah Colony,
4th Cross Street,
Saligramam,
Chennai-600 093.

.. Respondent/Petitioner

2.Mrs.Kanimozhi,
D/o.M.Karunanidhi,
No.14, First Main Road,
CIT Colony,
Mylapore,
Chennai-600 004.

.. R-2/R-1

This Original Application is filed under Order XIV Rule 8 of Madras High Court Original Side Rules read with Section 151 of the Code of Civil Procedure, 1908, to permit the applicants to release the electronic voting machines used for the elections in No.36, Thoothukudi Parliamentary Constituency, Tamil Nadu challenged in Election Petition No.5 of 2019.

For Applicants : Mr.Niranjan Rajagopalan

For Respondent-2 : Mr.Richardson Wilson for
M/s.P.Wilson Associates.

ORDER

The Original Application is filed by the Chief Election Commissioner and the Returning Officer to permit the applicants to release the electronic voting machines used for the elections in No.36, Thoothukudi Parliamentary Constituency, Tamil Nadu challenged in the Election Petition No.5 of 2019.

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2. The learned counsel appearing on behalf of the applicants

made a submission that the Election Petition No.5 of 2019 has been filed to declare the election of the returned candidates, namely, the first respondent in the main petition from No.36, Thoothukudi Parliamentary Constituency, Tamil Nadu held on 18.04.2019, in which the results have been declared on 23.05.2019 as null and void. As a practice of caution, the Electronic voting machines are preserved during the pendency of the Election Petition, due to which it is blocked from usage in other elections.

3. The learned counsel for the applicants made a submission that in the present original application, the issue is regarding the corrupt activities as well as the improper acceptance of Nomination Forms by the Returning Officer. In other words, it is contended that the particulars furnished in the Nomination Forms are improper and not in consonance with the provisions of the Representation of the People Act, 1951.

4. The learned counsel for the applicants reiterated that no issue raised regarding the counting of votes in connection with the functioning of the Electronic Voting Machines. Thus, there is no impediment for allowing the application to release the Electronic Voting Machines, which are now kept in pendency of the Election Petition.

5. The learned counsel appearing on behalf of the respondents have no serious objections for allowing the application, as they have admitted that there is no issue with reference to the counting of votes or in relation to the electronic voting machines utilised for casting votes.

6. In view of the fact that the respective counsels appearing on behalf of the respondents have no objection for allowing the application, this Court is inclined to consider the application.

7. Accordingly, the relief sought for in the present application to permit the applicants to release the electronic voting machines used for the elections in No.36, Thoothukudi Parliamentary Constituency, Tamil Nadu challenged in the Election Petition No.5 of 2019 stands allowed. However, there shall be no order as to costs.

सत्यमेव जयते

26-11-2019

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To

1.The Chief Election Commissioner,
O/o.Election Commission of India,
Nirvachan Sadan,
Ashoka Road,
New Delhi-110 001.

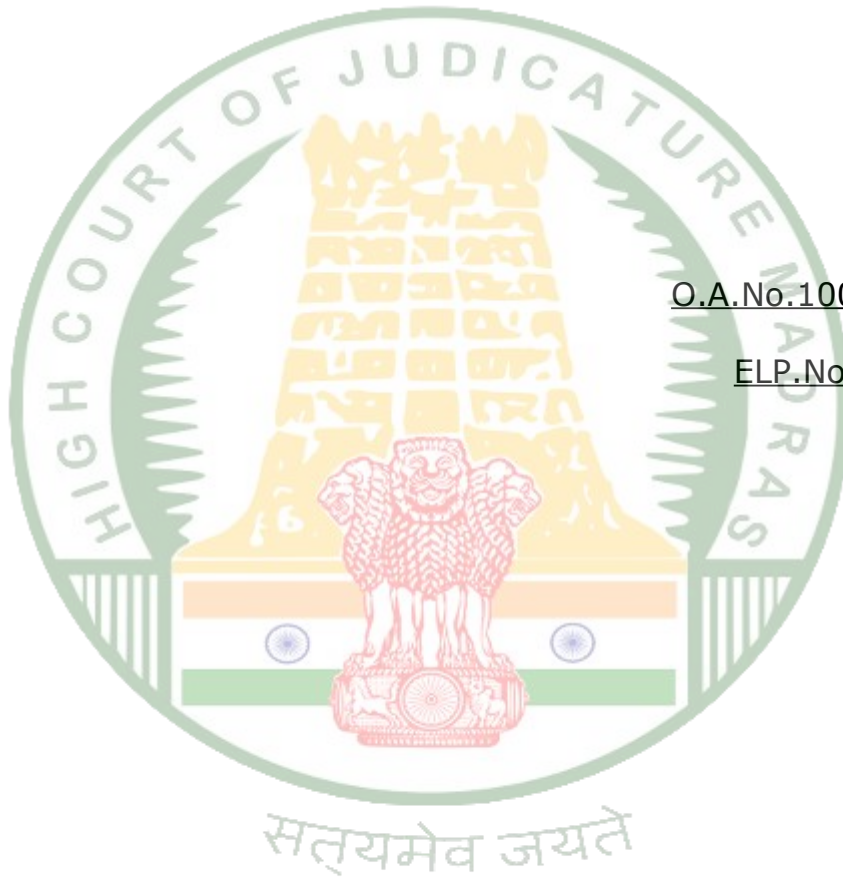
2.The Returning Officer,
No.36, Thoothukudi Constituency,
O/o.District Collector,
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S.M.SUBRAMANIAM, J.

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