

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.431 of 2019

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.08.08.2018 passed in I.A.No.366 of 2015 in Election O.P.No.17 of 2014 on the file of the Senior Civil Judge, Vikarabad, Ranga Reddy District.

2. The petitioner herein is 4th respondent in the Election O.P.
3. He got elected to Ward No.12 in Tandoor Municipality, Tandoor.
4. The 2nd respondent herein filed the said O.P. to declare the election of petitioner as null and void and inoperative, and that the petitioner was disqualified. He also sought a direction to respondent nos.3 to 5 to conduct fresh election therein.
5. Subsequently, 2nd respondent filed a Memo not pressing the Election O.P.; and by merely noting the presence of 2nd respondent and his Counsel the Memo was recorded, and the Election O.P. was dismissed as not pressed.
6. The 1st respondent herein, who had been impleaded as 5th respondent in the Election O.P., filed I.A.No.366 of 2015 to restore the Election O.P. contending that no notice was given to him and to other respondents by 2nd respondent before withdrawing the Election O.P.; that no date was fixed for hearing as contemplated under the

Andhra Pradesh Municipalities (Decision of Election Disputes) Rules, 1967; and 2nd respondent cannot be permitted to withdraw the O.P. since 1st respondent's interest is also involved in the case, and he is also seeking to declare the election of petitioner as illegal and further to declare him as elected to the post of Counselor, Ward No.12, Tandoor Municipality. He also stated that once the O.P. is restored, he would substitute himself as the petitioner in the Election O.P. and would contest the case. He alleged that the petitioner and 2nd respondent had colluded with each other and withdrawn the O.P.no.17 of 2014.

7. By order dt.08.08.2018, the Court below allowed the said I.A., though petitioner opposed the same by filing a counter and took a plea that the O.P. had been withdrawn by 2nd respondent in the presence of all persons with notices.

8. The Court below observed that as per the Docket Order in the O.P. on 29.04.2015, the O.P. was coming up for counter of respondents therein and though a Memo was filed by 2nd respondent withdrawing the Election O.P. on that day, notice was given only to petitioner and to no others including 1st respondent. It observed that under Rule 7(3) of the Rules, it is necessary to fix a date for hearing of the application for withdrawal of the O.P. to all other parties to the petition and there has to be publication in the manner specified in Rule(5), but the said procedure was not followed. It therefore allowed I.A.No.366 of 2015 and restored the O.P. to its original number.

9. Challenging the same, the present Civil Revision Petition is filed.

10. Though the counsel for petitioner sought to contend that there is no illegality committed by the Court below in permitting the withdrawal of Election O.P. by 2nd respondent, I do not agree with the said submission because admittedly the procedure contemplated in Rule 7(3) of the Rules as pointed out by the Court below has not been followed, and the O.P. was permitted to be withdrawn.

11. Therefore, the order passed by the Court below does not warrant any interference by this Court in exercise of its power under Article 227 of the Constitution of India.

12. Therefore, the Civil Revision Petition fails, and it is dismissed.
No order as to costs.

13. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18.03.2019

Ndr/*