

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.7044 of 2017

ORDER :

This Civil Revision Petition is filed assailing the order dt.22.11.2017 passed in I.A.S.R.No.23447 of 2017 in I.A.No.3516 of 2016 in Election O.P.No.491 of 2016 on the file of the Chief Judge, City Civil Court, Hyderabad.

2. The petitioner herein is the 4th respondent in the Election O.P.
3. One of the grounds raised by the 1st respondent herein, who is petitioner in the Election O.P., is that the petitioner had three children and was disqualified under the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 from contesting the election for post of Member of Ward No.49; and that the petitioner had given birth to a second child in Faruqi Nursing Home, Moghalpura, Hyderabad on 31.07.2005 which she suppressed in the declaration filed by her along with her nomination.
4. The 1st respondent filed I.A.No.3516 of 2016 to summon the in-charge / concerned person of the said Nursing Home to produce before the Court the original Birth Register relating to the period 27.07.2005 to 31.07.2005, contending that the 1st respondent had already filed attested copy of the Birth Register extract issued by the said Nursing Home, but it would also be necessary to summon the Register as the same would be required at the time of the trial to prevent the petitioner from meddling with the said record.

5. The petitioner did not file any counter to this application.
6. The said I.A.No.3516 of 2017 was ordered on 30.08.2017, one year five months after the said application was filed.
7. Thereafter, the petitioner filed I.A.S.R.No.23447 of 2017 stating that on account of her ill-health she could not contact her counsel for preparation of counter in I.A.No.3516 of 2016, but the Court below allowed the said application rejecting the request of the counsel for petitioner for further time to file a counter.
8. By order dt.22.11.2017, the Court below rejected I.A.S.R.No.23447 of 2017 holding that I.A.No.3516 of 2016 was allowed on 30.08.2017 itself; that the original Birth Register relating to the period 27.07.2005 to 31.07.2005 was received from the Faruqi Nursing Home, Moghalpura, Hyderabad and was also marked; and at this stage, the said order cannot be set aside.
9. Assailing the same, the present Civil Revision Petition is filed.
10. The counsel for petitioner contended that the petitioner had approached this Court in Civil Revision Petition No.1195 of 2017 challenging the action of the Chief Judge, City Civil Court, Hyderabad in making over the Election O.P. to the Court of the IX Additional Chief Judge, City Civil Court, Hyderabad; and that the said Civil Revision Petition was pending consideration, and so, counter was not filed in I.A.No.3516 of 2016.

11. This contention of the counsel for petitioner is without any merit because the Civil Revision Petition No.1195 of 2017 came to be allowed on 05.06.2017, and this Court directed the Chief Judge, City Civil Court, Hyderabad to withdraw the Election O.P. from the Court of the IX Additional Chief Judge, City Civil Court, Hyderabad to itself; subsequently, such withdrawal did occur and the matter came before the Chief Judge, City Civil Court, Hyderabad between 05.06.2017 and 30.08.2017; and when I.A.No.3516 of 2017 was allowed, the petitioner had ample time to file a counter and contest it, but she did not do so. The Court waited from March, 2016 when I.A.No.3516 of 2017 was filed till 30.08.2017, and then only allowed the said I.A., because for a year and half the petitioner did not file any counter. Therefore, the Court below cannot be found fault with for refusing to set aside the order dt.30.08.2017 passed in I.A.No.3516 of 2017 when the petitioner herself is to blame for not filing counter in the said I.A. for a year and a half.

12. Accordingly, 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: 27.02.2019

Ndr/*