

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.7013 of 2017

ORDER :

This Civil Revision Petition is filed assailing the order dt.22.11.2017 passed in I.A.S.R.No.28105 of 2017 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. filed by 1st respondent against her and others under Sections 71 to 87 of the Greater Hyderabad Municipal Corporation Act, 1955 read with The Andhra Pradesh Municipal Corporations (Conduct of Election of Members, Election Expenses and Election Petitions) Rules, 2005.

3. Though the Election O.P. was presented by the 1st respondent before the Chief Judge, City Civil Court, Hyderabad, the said Court erroneously made it over to the IX Additional Chief Judge, City Civil Court, Hyderabad.

4. The petitioner filed I.A.No.1421 of 2016 under Order VII Rule 11 before the IX Additional Chief Judge, City Civil Court, Hyderabad to reject / return the election petition on the ground that there was no cause of action, and that there was also no territorial jurisdiction. The said I.A. was dismissed on 06.01.2017 by the IX Additional Chief Judge, City Civil Court, Hyderabad.

5. The petitioner then questioned the same in Civil Revision Petition No.1195 of 2017.

6. This Court, after considering provisions of Section 75 of the Act and also G.O.Ms.No.109 Municipal Administration and Urban Development Department dt.13.02.2002 wherein the Chief Judge, City Civil Court, Hyderabad was designated as Election Tribunal to try Election Petitions under the Greater Hyderabad Municipal Corporation Act, 1955, opined that the IX Additional Chief Judge, City Civil Court, Hyderabad is not notified as Election Tribunal and the Chief Judge could not have made over the matter to the IX Additional Chief Judge, City Civil Court, Hyderabad. It therefore held that though the Election O.P. was rightly instituted before the Chief Judge, the Chief Judge was not competent to make it over to the IX Additional Chief Judge, City Civil Court, Hyderabad, which was not notified as Election Tribunal. It therefore directed that the Chief Judge, City Civil Court, Hyderabad should withdraw the Election Petition from the IX Additional Chief Judge, City Civil Court, Hyderabad along with connected Election Petitions, and decide them in accordance with law.

7. Thereafter, the Election O.P. was withdrawn from the Court of the IX Additional Chief Judge, City Civil Court, Hyderabad to the Court of the Chief Judge, City Civil Court, Hyderabad.

8. The petitioner then filed I.A.S.R.No.28105 of 2017 requesting the Court to initiate *de novo* proceedings by directing the 1st respondent / election petitioner to issue fresh summons and notices to all the respondents in the Election O.P. by giving all the respondents

reasonable opportunity to defend their case, and also to ignore any orders setting a party *ex parte* by the IX Additional Chief Judge, City Civil Court, Hyderabad by declaring it to be void, illegal and without jurisdiction.

9. By order dt.22.11.2017, the Court below dismissed I.A.S.R.No.28105 of 2017 holding that the High Court in the Civil Revision Petition No.1195 of 2017 had only directed withdrawal of the Election O.P. from the IX Additional Chief Judge, City Civil Court, Hyderabad to the Court of the Chief Judge, City Civil Court, Hyderabad, but did not direct conduct of *de novo* enquiry.

10. Assailing the same, the present Civil Revision Petition is filed.

11. The counsel for petitioner contended that when the IX Additional Chief Judge, City Civil Court, Hyderabad had no jurisdiction to deal with the Election petition, the proceedings which took place in the said Court have to be declared as null and void; and the Chief Judge, City Civil Court, therefore ought not to have refused to direct the 1st respondent to issue fresh notices to all the respondents in the Election O.P.

12. In my considered opinion, it is not as if the Election O.P. was instituted before the IX Additional Chief Judge, City Civil Court, Hyderabad who had actually no jurisdiction to function as Election Tribunal. It had been in fact correctly instituted before the Chief Judge, City Civil Court, Hyderabad who had erroneously made it over to the Court of the IX Additional Chief Judge, City Civil Court,

Hyderabad. Now that the High Court has directed the Chief Judge, City Civil Court, Hyderabad to withdraw the Election O.P. pending before the IX Additional Chief Judge, City Civil Court, Hyderabad to her Court and proceed with the matter; and such withdrawal has already admittedly occurred, and since the notices to the respondents in the Election O.P. had already been sent earlier, no useful purpose would be served by insisting on a repeat of the issuance of summons by the Court and making the 1st respondent pay for the same again; particularly, since the petitioner was aware of the withdrawal of the Election O.P. to the Court of the Chief Judge, City Civil Court, Hyderabad since the said withdrawal happened at the petitioner's instance.

13. I therefore, do not find any merit in this Revision and it is accordingly dismissed. No order as to costs.

14. 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

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