

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.175 OF 2020

Farzana Mohammad Shaikh Petitioner

Vs.

Jamila Mirza Baig & Ors. Respondents

Mr. S.M. Oak i/by Mr. Sagar A. Joshi for Petitioner.

Coram : NITIN W. SAMBRE, J.

Date : 9th January, 2020

P.C.:

1. In Election Petition before the learned Civil Judge, Senior Division, Thane, the election of the Petitioner is under question as a Councilor of Thane Municipal Corporation.

2. It is the case of the Petitioner- returned candidate that the affidavit-in-reply to the Election Petition could not be filed for genuine reasons as such for second time adjournment was sought, which was rejected by the impugned order dated 21st December, 2019. According to the learned counsel a prayer for adjournment was consented to by

respondent no.1 subject to costs and as last chance. The Petitioner volunteers to deposit costs of Rs.1,00,000/- before the Court of Civil Judge, Senior Division so as to show his bonafides. He also undertakes to file affidavit-in-reply to the Election Petition if last chance/opportunity is granted.

3. With the assistance, I have perused objections placed by respondent no.1, original election petitioner to the prayer for adjournment before the Court of Civil Judge, Senior Division. The respondent no.1, who is the Petitioner has indirectly consented for adjournment subject to certain conditions.

4. As the order passed hereinafter is in tune with the objection raised by respondent no.1/Election Petitioner before the Court below, notice to respondent no.1 is dispensed with.

5. By way of last chance and in view of undertaking given subject to deposit of costs of Rs.1,00,000/- before the Court of Civil Judge, Senior Division, before whom the election petition is pending,

by 15th January, 2020, the order impugned dated 21st December, 2019 is hereby quashed and set aside.

6. The Petitioner is permitted to place on record his affidavit-in-reply by 15th January, 2020 alongwith costs of Rs.1,00,000/-, failing which, the order impugned shall govern the proceedings.

7. The learned Court of Civil Judge, Senior Division shall be at liberty to deal with the apportionment of costs, if so deposited by the Petitioner.

8. The Petitioner volunteers that he will not seek any further adjournment or extension of the time fixed by this Court on whatsoever ground.

9. The Petition stands allowed in above terms.

(NITIN W. SAMBRE, J.)