



E.L.P.No.11 of 2016
& O.A.No.166 of 2022
and

O.A.Nos.822 & 823 of 2021, 889 & 890 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

E.L.P.No.11 of 2016

&

O.A.No.166 of 2022

and

O.A.Nos.822 & 823 of 2021, 889 & 890 of 2018

K.Balu

...Petitioner

Vs.

- 1.R.Kumaraguru
- 2.N.Chandrasekaran
- 3.G.R.Vasanthavel
- 4.Vijaykant
- 5.G.Ramalingam
- 6.M.Suriyaprakash
- 7.S.Desingh
- 8.S.Rajendran
- 9.M.Venkatesan



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10.Agni Sri Ramachandran

11.K.Arasan

12.T.Arigoindan

13.E.Arumugam

14.D.Kumaraguru

15.P.Shanmugam

16.G.V.Saravanan

17.Dr.K.Padmarajan

18.K.Bakkiyalakshmi

19.P.Balu

20.D.Manoharan

21.Rahamathullah Shariff

22.K.Rajasekaran

23.A.Vijayakanth

24.S.Vijayakanth

Respondents 25 to 28 are struck off from the array of respondents as per common order of this Hon'ble Court dated 16.10.2019 made in O.A.Nos.313, 314, 315 & 318 of 2017 in ELP.No.11 of 2016.

...Respondents



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PRAYER: Petition filed under Sections 80, 81, 82, 83, 84, 100 (1)(b) and Sections 123(1), 123(2), 123(6) and 123(7) of the Representation of the People Act, 1951 r/w. Conduct of Election Rules, 1961 and Madras High Court, Election Petition Rules, 1967, to declare the Election of 77, Ulundurpet Assembly Constituency, Tamil Nadu, held on 16.05.2016, in which results were declared on 19.05.2016 as null and void; direct the respondents to pay the cost of election petition and grant such other reliefs as ordered by this Court

For Petitioner : Mr.R.Jothimanian

For Respondent-1: Mr.M.Jothikumar

For Respondent-2: Mr.V.Rajesh

ORDER

The petitioner, who is the unsuccessful candidate in the Election of 77, Ulundurpet Assembly Constituency, Tamil Nadu, held on 16.05.2016, challenges the election of the first respondent / returned candidate, who was declared as elected on 19.05.2016 in the main Election Petition in ELP. No.11 of 2016. Pending Election Petition, O.A.No.166 of 2022 has been filed under Order



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XIV Rule VIII of Madras High Court Original Side Rules r/w.
Section 109 (1) of the Representation of People Act, 1951
(hereinafter referred to as "the Act").

2. Heard Mr.R.Jothimanian, learned counsel for the petitioner
and Mr.M.Jothikumar, as well as Mr.V.Rajesh, learned counsel for
the first and second respondent respectively.

3. The first respondent herein is the successful returned
candidate. The respondents 2 to 24, though served with the notice
of hearing, have not entered appearance. The official respondents
25 to 28 were struck off from the proceedings vide a common
order dated 16.10.2019 passed in O.A.Nos.313, 314, 315 & 318 of
2017. Thus, the only contesting respondent in the present Original
Application in O.A.No.166 of 2022 is the first respondent.

4. There is no objection from the first respondent, alleging
that the present application "for withdrawal" has been induced by
any bargain or consideration, which ought not to be allowed, as
contemplated under Section 110 (2) of the Act.



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5. On the directions of this Court, the petitioner had also published a notice of hearing in O.A.No.166 of 2022 in ELP. No.11 of 2016 in the Tamil Nadu Government Gazette Publication dated 12.04.2023, as required under Section 110 (3)(b) of the Act. No person has sought for substituting himself in the place of the petitioner herein, within 14 days of the said publication, as stipulated under Section 110 (3)(c) of the Act.

6. In the light of the above, leave is hereby granted to the petitioner to withdraw the main Election Petition in ELP. No.11 of 2016, on condition that the petitioner pays a sum of Rs.10,000/- as costs to the first respondent herein under Section 110 (3)(a) of the Act, within a period of ten days from the date of receipt of a copy of this order. Accordingly, the Original Application in O.A.No.166 of 2022 stands allowed and the Election Petition No.11 of 2016 is "dismissed as withdrawn". Consequently, the connected Original Applications iviz., O.A.Nos.822 & 823 of 2021 and 889 & 890 of 2018 stand dismissed.



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7. Registry shall report the fact of this withdrawal of the main Election Petition i.e., ELP. No.11 of 2016 to the Chief Election Commissioner, New Delhi, who shall thereupon publish the report in the Official Gazette.

09.06.2023

Index:Yes
Order: Speaking
Neutral Citation :Yes

DP

To

The Chief Election Commissioner,
New Delhi.



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M.S.RAMESH, J.

DP

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