



2025:DHC:3705



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 08.05.2025*+ **C.R.P. 102/2024 & CM Appl.15322/2024**

ARUN NAVARIYA

.....Petitioner

Through: Mr. Anupam Srivastava, Sr. Adv.
with Ms. Sheenu Priya, Mr. Aman
Kumar and Mr. Vasu Prasad, Advs.

versus

SH. NARESH & ORS.

.....Respondents

Through: Mr. Swastik Singh, Mr. Atul Singh,
Mr. Himanshu Dagar and Mr.
Shreshtah Raj Srivastava, Advs. for
R-1.
Ms. Vaishali Gupta, Panel Counsel
GNCTD.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed under Section 151 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] impugning the order dated 17.02.2024 [hereinafter referred to as "Impugned Order"] passed by the learned Principal District & Sessions Judge, South District, Saket Courts, New Delhi. By the Impugned Order, the Application under Order VII Rule 11 of the CPC filed by the Petitioner, who was arrayed as Respondent No.5 in the Petition filed before the learned Trial Court, has been dismissed.

2. Learned Senior Counsel for the Petitioner submits that the Petitioner had raised several legal objections against the Election Petition filed by the



Respondent/Petitioner. However, it is stated that the Impugned Order has not dealt with all the contentions raised by the Petitioner.

2.1 The grounds for challenge raised by the Petitioner are that the Election Petition filed by the Respondent is liable to be rejected since:

- (i) The Respondent No.1 has failed to file the Affidavit as provided under Rule 90 of the Delhi Municipal Corporation (Election of Councillors) Rules, 2012 [hereinafter referred to as “DMC Rules”] within the prescribed time period;
- (ii) Election Petition is bereft of any cause of action since there is no violation of Rule 18 of the DMC Rules; and
- (iii) Section 22(2) and 22(4) of the Delhi Municipal Corporation Act, 1957 are not applicable.

2.2 Learned Senior Counsel for the Petitioner fairly concedes that grounds (ii) and (iii) as mentioned above, only forms part of the written submissions filed before the learned Trial Court and do not form part of the Application filed under Order VII Rule 11 of the CPC.

3. A Coordinate Bench of this Court had on 22.03.2024 directed that the learned Trial Court may proceed with the recording of evidence but the final orders shall not be passed until a decision in the present case. The said order has continued till today.

4. The learned Trial Court has by the Impugned Order examined the contentions raised by the Petitioner and found that the plaint discloses a cause of action and no ground as is envisaged under Order VII Rule 11, CPC has been made out, and thus dismissed the Application. The learned Trial



Court has also found that the objection in relation to the non-filing of the Affidavit under Rule 90 of the DMC Rules was rejected previously by the learned Trial Court and that order was not challenged by the Petitioner and has thus attained finality.

5. Learned Counsel for Respondent No. 1 submits that the evidence in the matter has been completed and the matter is at the stage of final arguments before the learned Trial Court. Learned Counsel further submits that this Petition has only been filed to delay the proceedings before the learned Trial Court.

6. Learned Senior Counsel for the Petitioner submits that some of the objections which were taken by the Petitioner have been adjudicated upon by the Impugned Order and the observations in the Impugned Order may cause prejudice to the Petitioner during the final adjudication of the matter.

6.1 It is further submitted, on instructions, that the prayer in the present Petition is restricted to an opportunity that he should be permitted to argue all contentions that have been raised by him, including grounds (ii) and (iii) as mentioned above, before the learned Trial Court, and that the Petitioner shall conclude his submissions on any date as may be fixed by this Court.

7. Learned Counsel for the Respondent No. 1 submits that in the interest of expediency, in the event that the Petitioner wishes to make submissions, he may do so on a fixed date since the matter is getting adjourned repeatedly before the learned Trial Court in view of the directions passed by a Coordinate Bench of this Court.

8. Accordingly, and with the consent of the parties, the following



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directions are passed:

(i) The Petitioner is at liberty to agitate the objections taken to the Election Petition, *albeit* in accordance with law, at the next hearing scheduled before the learned Trial Court on 21.05.2025;

(ii) Neither party shall take an adjournment on that date.

9. Learned Counsel for the parties also submit that they will not take any unnecessary adjournments before the learned Trial Court to enable expeditious conclusion of the trial. The parties are bound down by the statement made by their Counsel today.

10. The Petition is accordingly disposed of in the foregoing terms. The pending Application also stands closed.

11. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 8, 2025/r/ ha

Click here to check corrigendum, if any