

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

C.R.P.Nos.4572, 4580 & 4583 of 2015

COMMON ORDER:

These Civil Revision Petitions are filed under Article 227 of the Constitution of India questioning the docket order, dated 15.9.2015, passed in I.A.Nos.423, 425 and 424 of 2015 in O.P.No.02 of 2013 on the file of the Principal Junior Civil Judge at Jagtial wherein and whereby, the application filed by the petitioner/respondent No.1 under Order XVIII Rule 17 read Section 151 C.P.C. to recall P.W.1 for further cross examination, under Section 151 C.P.C., to re-open the case for further cross examination of P.W.1 and under Order VIII Rule 1-A(3) C.P.C. to receive document enclosed therein, were dismissed.

2. The petitioner herein, who is respondent No.1 in the above O.P., filed the above Interlocutory Applications to prove that she was pregnant at the time of the elections and to elicit certain facts which are essential to her case.

3. Counters came to be filed in I.A.Nos.423 and 425 of 2015 stating that P.W.1 was already cross examined and that she has no knowledge about the pregnancy of petitioner/respondent No.1 at the time of elections and only to fill the lacunae in the case and to prolong the matter, these petitions were filed. It is further stated that the pregnancy of petitioner/respondent No.1 has nothing to do with the case. Learned counsel for respondent No.1 raised his objection before the Court below in I.A.No.424 of 2015 stating that none of the parties in the O.P. denied the nomination of petitioner/respondent No.1 and in such a case, there is no necessity to receive the document in question, as evidence.

4. A perusal of the material on record would show that respondent No.1 herein filed the above O.P. to declare the election of petitioner/respondent No.1, who has been

declared elected as Sarpanch of Gram Panchayat Batkapalli Village, Pegadapalli Mandal, Karimnagar District, as illegal and arbitrary. Pending the said O.P., the present I.As came to be filed. It is to be noted that in the O.P., P.W.1 was cross examined on 21.10.2014 and the case was posted for the evidence of the petitioner. The material further discloses that after taking number of adjournments, P.W.1 was cross examined in detail.

5. One of the grounds raised by the learned counsel for the petitioner is that by mistake, it was typed in the cross examination of P.W.1 that respondent No.1 herein was 9 months pregnant instead of the petitioner. The said argument was rejected by the Court below on the ground that pregnancy of the petitioner or respondent No.1 is not the subject matter for adjudication since the same is not an issue in the election petition. P.W.1 was thoroughly cross examined on behalf of respondent No.1 about a year ago and subsequently, P.W.2 was also examined, but the said plea of pregnancy of petitioner/respondent No.1 was not at all taken at any point of time. As stated earlier, the plea of pregnancy of P.W.1, which is sought to be taken by petitioner/respondent No.1, is not the subject matter in the O.P. If really the petitioner wants to adduce any evidence in that regard, she can do so during the trial by examining herself. Since the material on record show that the main O.P. was posted for the evidence of R.W.1, it is always open to her to adduce evidence, if necessary, in that regard. But without cooperating with trial of the case and without taking steps in that regard, the petitioner approached this Court.

6. Having regard to the above, this Court is of the view that there are no valid and justifiable reasons to interfere with the impugned orders.

7. Accordingly, the Civil Revision Petitions are dismissed. There shall be no order as to costs. Miscellaneous Petitions pending, if any, in these Civil Revision Petitions shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Date: 20.11.2015

AMD

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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