

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.753 of 2016

&

C.M.P.No.4180 of 2016

1.Nagappan

2.Thilagavathy

... Petitioners

VS.

The Union of India Owning
Southern Railway
Rep. By its General Manager
Chennai – 600 003

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the Railway Claims Tribunal, Chennai Bench in I.A.No.148 of 2015 in O.A.No.(II-U) 80 of 2015 dated 05.02.2016 and allow the Civil Revision Petition.

For Petitioners : Mr.S.Parthasarathy

ORDER

The applicants in O.A.No.(II-U) 80 of 2015 before the Railway Claims Tribunal, Chennai Bench, are the petitioners in the present Civil Revision Petition.

2. The claim was made for the death of Sanjay Kumar, the son of the petitioners herein at Saidapet Railway Station due to an alleged fall from the EMU at the time of boarding the same. The claim is resisted by the respondent Railways and in the enquiry conducted before the Tribunal, the petitioners examined two witnesses as AW1 and AW2. The second witness, namely AW2 was examined on 23.09.2015 and after the completion of his evidence, the applicants who are the revision petitioners themselves voluntarily closed the evidence on their part. When the case stood listed for recording the evidence to be adduced on the side of the respondent, the revision petitioners/applicants filed an earlier application for re-opening the case to enable the revision petitioners / applicants to adduce additional evidence. By filing such a petition, they wanted to examine alleged co-passengers. The Tribunal passed an order dated 26.10.2015 holding that such a prayer could not be sustained since the applicants

themselves closed their evidence and they had not given the details of the co-passengers who were sought to be examined.

3. However, after such an order came to be passed by the Tribunal, the applicants chose to make an endorsement on the affidavit to the effect that the same was withdrawn with liberty to take steps at appropriate time. No order granting liberty came to be passed by the Tribunal. Taking advantage of the said fact that such an endorsement was made withdrawing the affidavit filed in support of the earlier application for re-opening the case, the revision petitioners herein/applicants chose to file I.A.No.148 of 2015 for re-opening the case for their further evidence not before the defence evidence was let in, but after the closure of the defence evidence of the respondents. The Tribunal, considering the relevant facts and circumstances and also relying on the observations made in the order dated 26.10.2015 passed in the earlier application for re-opening, held that prayer made in I.A.No.148 of 2015 for re-opening the case for further evidence could not be sustained. It is as against the said order, the present Civil Revision Petition has been filed under Article 227 of the Constitution of India by passing such an order.

4. This Court is of the opinion that the Tribunal has not exceeded its power and it cannot be said that it has failed to exercise the jurisdiction conferred on it. It cannot also be projected as an order which is manifestly erroneous and will lead to miscarriage of justice to warrant an interference by this Court with such an order passed by the Tribunal by exercising the power of superintendence under Article 227 of the Constitution of India. There is no merit in the revision and the revision does not even merit admission and the same deserves dismissal at the threshold.

In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

08.03.2016

Index: Yes/No
Internet: yes
gpa

To

1. The Railway Claims Tribunal
Chennai Bench
2. The General Manager
The Union of India Owning
Southern Railway
Chennai – 600 003

P.R.SHIVAKUMAR.J.,
gpa

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