HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.17478, 17479, 17480, 17481, 17482, 17483, 17484, 17485, 17486, 17487, 17488, 17489, 17490, 17491, 17492, 17493, 17494, 17495, 17496, 17497, 17498, 17499, 17500, 17501, 17502, 17503, 17504, 17505, 17506, 17507, 17508, 17509, 17510, 17511, 17512, 17513, 17514, 17515, 17516, 17517, 17518, 17519, 17520, 17521, 17522, 17523, 17524, 17525, 17526, 17527, 17528, 17529, 17530, 17531, 17532, 17533, 17534, 17535, 17536, 17537, 17538, 17539, 17540, 17541, 17542, 17543, 17544, 17545, 17546, 17547, 17548, 17549, 17550, 17551, 17552, 17553, 17554, 17555, 17556, 17557, 17558, 17559, 17560, 17561, 17562, 17563, 17564, 17565, 17566, 17567, 17568, 17569,17570, 17571, 17572, 17573 17574, 17575, 17576, 17577, 17578, 17579, 17580, 17581, 17582, 17583, 17584, 17585, 17586; 17587, 17588, 17589, 17590, 17591, 17592, 17593, 17594, 17595, 17596, 17597, 17598, 17599, 17600, 17601, 17602, 17603, 17604, 17605, 17606, 17607, 17608, 17609, 17610, 17611, 17612 17613, 17614, 17615, 17616, 17617, 17618, 17619, 17620, 17621, 17622, 17623, 17624, 17625, 17626, 17627, 17628, 17629, 17630, 17631, 17632, 17633, 17634, 17635, 17636, 17637, 17638, 17639, 17640, 17641, 17642, 17646, 17647, 17648, 17649, 17650, 17651, 17652, 17653, 17654, 17655, 17656, 17657, 17658, 17659, 17660, 17661, 17766, 17767, 17768, 17769, 17770, 17771, 17772, 17773, 17774, 17775, 17776, 17777, 17778, 17779, 17780, 17781, 17782, 17783, 17784, 17785, 17786, 17787, 17788, 17789, 17790, 17791, 17792, 17793, 17794, 17795, 17796, 17797, 17798, 17799, 17800, 17801, 17802, 17803, 17804, 17805, 17806, 17807, 17808, 17809, 17810, 17811, 17812, 17813, 17814, 17815, 17816, 17817, 17818, 17819, 17820, 17821, 17822, 17823, 17824, 17825, 17826, 17827, 17828, 17829, 17830, 17831, 17832, 17833, 17834, 17835, 17836, 17837, 17838, 17839, 17840, 17841, 17842, 17843, 17844, 17845, 17846, 17847, 17848, 17849, 17850, 17851, 17852, 17853, 17854, 17855, 17856, 17857, 17858, 17859, 17860, 17861, 17862, 17863, 17864, 17865, 17866, 17867, 17868, 17869, 17870, 17871, 17872, 17873, 17874, 17875, 17876, 17877, 17878, 17879, 17880, 17881, 17882, 17883, 17884, 17885, 17886, 17887, 17888, 17889, 17890, 17891, 17892, 17893, 17894, 17895, 17896, 17897, 17898, 17899, 17900, 17947, 17948, 17949, 17950, 17951, 17952, 17953, 17954, 17955, 17956, 17957, 17958, 17959, 17960, 17961, 17962, 17963, 17964, 17965, 17966, 17967, 17968, 17969, 17970, 17971, 17972, 17973, 17974, 17975, 17976, 17977, 17978, 17979, 17980, 17981, 17982, 17983, 17984, 17985, 17986, 17987, 17988, 17989, 17990, 17991, 17992, 17993, 17994, 17995, 17996, 17997, 17998, 17999, 18000, 18001, 18002, 18003, 18004, 18005, 18006, 18007, 18008, 18009, 18010, 18011, 18012, 18013, 18014, 18015, 18016, 18017, 18018, 18019,

18020, 18021, 18022, 18023, 18024, 18025, 18026, 18027, 18028, 18029, 18030, 18031, 18032, 18033, 18034, 18035, 18036, 18037, 18038, 18039, 18040, 18041, 18042, 18043, 18044, 18045, 18046, 18047, 18048, 18049, 18050, 18051, 18052, 18053, 18054, 18055, 18056, 18057, 18058, 18059, 18060, 18061, 18062, 18063, 18064, 18065, 18066, 18067, 18068, 18069, 18070, 18071, 18072, 18073, 18074, 18075, 18076, 18077, 18078, 18079, 18080, 18081, 18082, 18083, 18084, 18085, 18086, 18087,18088 and 18089 OF 2018

COMMON ORDER :

As the issue involved in all these Writ Petitions arising out of Judgment in OA No.433 of 2015 & batch passed by the 1st respondent on 14.03.2017 on the applications filed by the claimants under Section 13 (1)(ii) and Section 16 of the Railway Claims Tribunal Act, 1987 r/w Section 123 (c) (2), 124-A & 125 of the Railways Act, 1989, they are being heard together and disposed of by way of this Common Order.

Learned counsel appearing on behalf of the petitioner in all the Writ Petitions submits that common Judgment passed in respect of OAs ignoring specific provisions i.e., Sub-Section (2) & (3) of Section 18 dealing with Procedure and Powers of Claims Tribunal) of the Railway Claims Tribunal Act, 1987, which specifically provides that the Claims Tribunal shall decide every application as expeditiously as possible and ordinarily every application shall be decided on a perusal of the documents, written representations and affidavits of each individuals. She further submits that the 1st respondent had not even verified the authenticity of the claimant's identity and even without determining the entitlement of each claimant, only on the assumption that all the claimants are legal heirs of the deceased,

passed the impugned Judgment. She further submits that there is no assessment of amounts to be paid on the basis of merits of the case by physically examining the applicants. She submits that all the OAs are at different stages of trial, but no opportunity was given to the petitioner for adducing evidence and it is very difficult to implement the common judgment passed by the 1st respondent, as different claims have been decided in a common judgment, without any proper determination. She also submits that Railway Claims Tribunal should decide all the claims as per Rule 13 (2) of the Railways Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003, but the same has not been followed by the 1st respondent. She also submits that as per Rule 15C of the Railways Claims Tribunal (Procedure) Rules, 1989, the documents filed by the applicants have to be marked by the Railways Claims Tribunal, but no documents were marked by the 1st respondent.

On the other hand, Sri A.Lakshma Reddy, Sri S.Chandra Sekhar, and Sri P.Sridhar Reddy, learned counsel appearing on behalf of some of the unofficial respondents-applicants, submits that the petitioner has alternate remedy of appeal under Section 23 of the Railway Claims Tribunal Act, 1987 against the impugned judgment. They also submit that petitioner also has alternate remedy of review of decision of the Tribunal under Rule 32 of the Railways Claims Tribunal (Procedure) Rules, 1989. They also submit that the 1st respondent has given several opportunities and that since the matters were pending for a long time and after

considering the merits of the case, by relying on Sections 123 (c) (2), 124-A & 125 of the Railways Act, 1989 granted compensation, as such, same cannot be faulted. They submit that as per Rule 44 of the Railways Claims Tribunal (Procedure) Rules, 1989, the Railways Tribunal has inherent power to pass such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal. They also submit that the petitioner has filed two CMAs i.e., CMA No.534 of 2017 against orders in OA No.124 of 2009 and CMA No.524 of 2017 against order in OA No.94 of 2006 and withdrawn the same on 23.04.2018, as such, the statement in the writ affidavit that they have no other alternate remedy, cannot be accepted. They submit that as on the date of filing of the Writ Petitions, both the CMAs are pending, but the said fact is not disclosed in the Writ Petitions. In support of their contentions, they placed reliance on the following judgments:

a) **Union of India v. Prabhakaran Vijaya Kumar and others[1]; b) Syed Yakoob v. K.S.Radhakrishnan[2]; c) Burada Kanaka Ratnam v. Senior Superintendent of Posts, Bhimavaram Division, Bhimavaram, West Godavari District[3]; d) Dr.K.L.Narayana v. Special Tribunal u/A.P. Land Grabbing Prohibition Act, 1892-cum-Chief Judge, City Civil Courts, Hyderabad and others[4]; e) H.B.Gandhi, Excise and Taxation Officer-cum-Assessing Authority, Karnal and others v. M/s.Gopi Nath & sons[5]; f) Katla Prashanthi v. Dudapaka Shoba and others[6] g) Common order dated 12.09.2014 in CRP Nos. 4079 of 2013 & batch.**

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[1] 2008 ACJ 1895
[2] AIR 1964 Supreme Court 477
[3] 2005 (2) ALD 174
[4] 2017 (1) ALD 655 (DB)
[5] 1992 Supp (2) Supreme Court Cases 312
[6] 2017 (1) HLT 763

It is appropriate to have a look at the relevant provisions for better appreciation for deciding the *lis* in the Writ Petitions.

a) Section 23 of the Railways Claims Tribunal Act, 1987, provides for appeal against order of Tribunal, which reads as follows:

> **"23. Appeals.—**
> (1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in any other law, an appeal shall lie from every order, not being an interlocutory order, of the Claims Tribunal, to the High Court having jurisdiction over the place where the Bench is located.
> (2) No appeal shall lie from an order passed by the Claims Tribunal with the consent of the parties.
> (3) Every appeal under this section shall be preferred within a period of ninety days from the date of the order appealed against."

b) Section 18 (3) (f) of the Railway Claims Tribunal Act, 1987 reads as follows:

> "Section 18 Procedure and powers of Claims Tribunal:
>
> (1)....
> (2)....
>
> (3) The Claims Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—
> (a) ...
> (b) ...
> (c) ...
> (d) ...
> (e) ...
> (f) reviewing its decisions;

(c) Clause (f) of Rule 20 of the Railways Claims Tribunal (Procedure) Rules, 1989, confers power of review on the Tribunal for reviewing its decisions, which reads as follows:

> "Rule 20. Procedure and powers of Tribunal:-The Tribunal shall have for the purposes of discharging its functions under this Act, the same powers as vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-
> (a) to (e)……
> (f) reviewing its decisions;"

(d) Rule 32 of the Railways Claims Tribunal (Procedure) Rules, 1989 reads as follows:

> "**32. Review of decision:**
> (1) Any person considering himself aggrieved by any order of the Tribunal from which no appeal is allowed [or from which appeal is allowed, but has not been preferred] and who on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the order made against him, may apply for review of a final order not being an interlocutory order, to the Tribunal.
> [(2) Where it appears to the Tribunal that there is not sufficient ground for a review, it shall reject the application and its reasons for so doing.]
> (3) Where tribunal is of the opinion that the application for review should be granted, it shall grant the same:
> Provided that no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the order, a review of which is applied for."

From the reading of the above provisions, which are relied on by the learned counsel for the respondents, goes to show that the petitioners have remedy of appeal under Section 23 of the Act of 1987 as well as they can even avail remedy of review under clause (f) of Sub-Section 3 of Section 18 of the Act of 1987. They can also avail remedy of review under clause (f) of Rule 20 of the Railways Claims Tribunal (Procedure) Rules, 1989. Without availing the aforesaid remedies, petitioners straight away filed present Writ Petitions. Since there is an efficacious alternative remedy is available to the petitioners, this Court is not inclined to entertain the Writ Petitions.

That apart, admittedly, two CMAs i.e., CMA No.534 of 2017 against orders in OA No.124 of 2009 and CMA No.524 of 2017 against order in OA No.94 of 2006 filed by petitioners, were withdrawn on 23.04.2018 but the said fact is not mentioned in the affidavits filed in support of the Writ Petitions. The said OAs

are among the batch of OAs, in which the 1st respondent passed judgment, which is impugned in these Writ Petitions. The omission of the said fact in the affidavits filed in support of the Writ Petitions and the averment that they have no other alternative remedy except approaching this Court, amounts to suppression of material fact and that on this ground alone, all the Writ Petitions are liable to be dismissed. When the petitioners themselves have filed CMAs and same were pending as on the date of filing of the Writ Petitions, it cannot be said that the petitioners have no alternative remedy. It is pertinent to note that after filing of these writ petitions, the aforesaid CMAs are withdrawn, even without seeking liberty to file present writ petitions. Though alternate remedy is not a bar from maintaining Writ Petition, but in the present case, it is not the case of the petitioners that the 1st respondent lacks inherent jurisdiction to entertain the applications. The only grievance of the petitioners is that the impugned order is not passed in accordance with the provisions of the statute under which the applications are filed. All the objections raised herein by the petitioners can be raised while availing the alternate remedies available to them under law.

Though learned counsel for the petitioners vehemently argued that the names of the parties in each OA are not mentioned in the impugned order and that there is no independent determination of the claims by the 1st respondent, but in view of the fact that alternate efficacious remedy is

available to the petitioners, as observed supra, this Court is not inclined to entertain these Writ Petitions.

In view of above facts and circumstances, I do not see any reason to entertain the Writ Petitions and the same are liable to be dismissed and accordingly dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these writ petitions, shall stand dismissed.

A.RAJASHEKER REDDY, J

17.09.2018
kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.17478, 17479, 17480, 17481, 17482, 17483, 17484, 17485, 17486, 17487, 17488, 17489, 17490, 17491, 17492, 17493, 17494, 17495, 17496, 17497, 17498, 17499, 17500, 17501, 17502, 17503, 17504, 17505, 17506, 17507, 17508, 17509, 17510, 17511, 17512, 17513, 17514, 17515, 17516, 17517, 17518, 17519, 17520, 17521, 17522, 17523, 17524, 17525, 17526, 17527, 17528, 17529, 17530, 17531, 17532, 17533, 17534, 17535, 17536, 17537, 17538, 17539, 17540, 17541, 17542, 17543, 17544, 17545, 17546, 17547, 17548, 17549, 17550, 17551, 17552, 17553, 17554, 17555, 17556, 17557, 17558, 17559, 17560, 17561, 17562, 17563, 17564, 17565, 17566, 17567, 17568, 17569,17570, 17571, 17572, 17573 17574, 17575, 17576, 17577, 17578, 17579, 17580, 17581, 17582, 17583, 17584, 17585, 17586; 17587, 17588, 17589, 17590, 17591, 17592, 17593, 17594, 17595, 17596, 17597, 17598, 17599, 17600, 17601, 17602, 17603, 17604, 17605, 17606, 17607, 17608, 17609, 17610, 17611, 17612 17613, 17614, 17615, 17616, 17617, 17618, 17619, 17620, 17621, 17622, 17623, 17624, 17625, 17626, 17627, 17628, 17629, 17630, 17631, 17632, 17633, 17634, 17635, 17636, 17637, 17638, 17639, 17640, 17641, 17642, 17646, 17647, 17648, 17649, 17650, 17651, 17652, 17653, 17654, 17655, 17656, 17657, 17658, 17659, 17660, 17661, 17766, 17767, 17768, 17769, 17770, 17771, 17772, 17773, 17774, 17775, 17776, 17777, 17778, 17779, 17780, 17781, 17782, 17783, 17784, 17785, 17786, 17787, 17788, 17789, 17790, 17791, 17792, 17793, 17794, 17795, 17796, 17797, 17798, 17799, 17800, 17801, 17802, 17803, 17804, 17805, 17806, 17807, 17808, 17809, 17810, 17811, 17812, 17813, 17814, 17815, 17816, 17817, 17818, 17819, 17820, 17821, 17822, 17823, 17824, 17825, 17826, 17827, 17828, 17829, 17830, 17831, 17832, 17833, 17834, 17835, 17836, 17837, 17838, 17839, 17840, 17841, 17842, 17843, 17844, 17845, 17846, 17847, 17848, 17849, 17850, 17851, 17852, 17853, 17854, 17855, 17856, 17857, 17858, 17859, 17860, 17861, 17862, 17863, 17864, 17865, 17866, 17867, 17868, 17869, 17870, 17871, 17872, 17873, 17874, 17875, 17876, 17877, 17878, 17879, 17880, 17881, 17882, 17883, 17884, 17885, 17886, 17887, 17888, 17889, 17890, 17891, 17892, 17893, 17894, 17895, 17896, 17897, 17898, 17899, 17900, 17947, 17948, 17949, 17950, 17951, 17952, 17953, 17954, 17955, 17956, 17957, 17958, 17959, 17960, 17961, 17962, 17963, 17964, 17965, 17966, 17967, 17968, 17969, 17970, 17971, 17972, 17973, 17974, 17975, 17976, 17977, 17978, 17979, 17980, 17981, 17982, 17983, 17984, 17985, 17986, 17987, 17988, 17989, 17990, 17991, 17992, 17993, 17994, 17995, 17996, 17997, 17998, 17999, 18000, 18001, 18002, 18003, 18004, 18005, 18006, 18007, 18008, 18009, 18010, 18011, 18012, 18013, 18014, 18015, 18016, 18017, 18018, 18019, 18020, 18021, 18022, 18023, 18024, 18025, 18026, 18027, 18028, 18029, 18030, 18031, 18032, 18033, 18034, 18035, 18036, 18037, 18038, 18039, 18040, 18041, 18042, 18043, 18044, 18045, 18046, 18047, 18048, 18049, 18050, 18051, 18052, 18053, 18054, 18055, 18056, 18057, 18058, 18059, 18060, 18061, 18062, 18063, 18064, 18065, 18066, 18067, 18068, 18069, 18070, 18071, 18072, 18073, 18074, 18075, 18076, 18077, 18078, 18079, 18080, 18081, 18082, 18083, 18084, 18085, 18086, 18087,18088 and 18089 OF 2018

Date: 17.09.2018

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