

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

906 FIRST APPEAL NO.168 OF 2017

Gautam Mangal Wankhade and another
... **Versus** ...
Union of India

...

Mr. V.B. Madam, Advocate for the appellants
Mr. M.N. Navandar, Advocate for the sole respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 09th OCTOBER, 2019

PER COURT :

1 Heard both sides. Learned Advocate appearing for the respondent has raised objection in respect of jurisdiction of this Court to entertain the First Appeal, though the said objection was not taken by the office when the appeal was presented, and therefore, the appellants were directed to produce documents on record in respect of their permanent address. The title clause of the First Appeal shows that their address is Jalgaon and stated as presently residing, but the affidavit also is sworn of the address at Amravati. The affidavit does not say, since when the appellants are residing at Jalgaon. Their petition before the Railway Claims Tribunal gives address of Jalgaon, but it is different than the address mentioned in the title clause of the appeal. Therefore, it cannot be said that since the filing of

the petition in 2012, the appellants are residing at Jalgaon. The documents, which have been produced by the appellants in pursuant to the orders passed, also not showing the address at Jalgaon but they are of Amravati.

2 The jurisdiction of the Railway Claims Tribunal is governed under Rule 8 of the Railway Claims Tribunal (Procedure) Rules, 1989. Rule 8 specifies the place of filing application for compensation in accident or untoward incident claim. One of the place is, where the claimant normally resides. The word “normally” used in this Rule cannot be taken as ‘casual’ or ‘temporary’ residence, but it requires stay of the said claimant at place in a considerable period. Further, as per Schedule I(A) to Sub Rule (1) of Rule (3) gives jurisdiction to Nagpur of the Railway Claims Tribunal in respect of districts of Maharashtra except those included in item (i) of column-3 at Sr.No.16. Here, in this case, in view of the fact, that the applicants were residing at Amravati or even taken that their residence of Jalgaon was shown, the matter has been decided by Railway Claims Tribunal at Nagpur.

3 Section 23 of the Railway Claims Tribunal Act, 1987 deals with appeals and it prescribes, that 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. The decision in Civil Application No.12007 of 2011 in First Appeal Stamp No.22717 of 2011

passed by this Court on 19.06.2013 has been brought to notice, wherein this Court has held that “the place where the Bench is located” as provided under Section 23 of the Railway Claims Tribunal Act how construed that it is in respect of all the Benches of the High Court of Judicature at Bombay and therefore, when the appellant or original claimant resides within the territorial jurisdiction of this Bench, then this Bench will have jurisdiction to try and entertain the First Appeal, though there is no Bench of Railway Claims Tribunal for Aurangabad region. Taking into consideration the conjoint reading of Rule 8 of the Railway Claims Tribunal (Procedure) Rules, 1989, Section 23 of the Railway Claims Tribunal Act and the fact that the appellants are the permanent residents of Amravati, which is not within the territorial jurisdiction of this Bench. This Bench will not have jurisdiction to try and entertain this First Appeal and under such circumstance, on the request of learned Advocate appearing for the appellants, he is allowed to withdraw the present appeal for its presentation before the appropriate Bench. Appellants to receive the appeal memo and the other documents, within a period of 2 weeks, from this Court, for its presentation before the appropriate Court, which should be within the limitation.

(Smt. Vibha Kankanwadi, J.)