

(2014) 12 MAD CK 0258

In the Madras High Court

Case No : Review Application No. 167 of 2014 in W.A. No. 950 of 2013 and M.P. Nos. 1 and 2 of 2014 in Review Application No.167 of 2014

G. Chandramohan

APPELLANT

Vs

Indian Oil Corporation

RESPONDENT

Date of Decision : 11-12-2014

Acts Referred:

Citation : (2014) 12 MAD CK 0258

Hon'ble Judges : N. Paul Vasantha Kumar, J;K. Ravichandra Babu, J

Bench : Division Bench

Judgement

N. Paul Vasantha Kumar, J.—This Review Application is filed seeking review of the judgment made in W.A.No. 950 of 2013, dated 16.10.2014, wherein another counsel appeared for the Review Applicant herein and by change of counsel, this Review Application is filed. Such a Review Application cannot be entertained, following the judgment of the Honourable Supreme Court reported in Tamil Nadu Electricity Board and another Vs. N. Raju Reddiar and another, , wherein in paragraph 1, it has been observed as follows:

"1. When an appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the Advocate-on-Record who neither appeared nor was party in the main case. It is salutary to note that the court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the Advocate-on-Record at earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession. ... "

2. The only difference in this case is that the consent from the earlier counsel was obtained for filing the Review Application by a change of counsel. The Review Applicant, who is the second respondent in the Writ Appeal, having been

selected during pendency of the Writ Appeal proceedings, cannot have any right to claim that his selection shall be sustained and the reasons were clearly spelt out in the Writ Appeal judgment. The grounds raised in this Review Application were considered in depth by this Bench and the same would show that they are nothing but re-arguing the matter once again on merits, which is not permissible under the Review jurisdiction. In a recent decision of the Honourable Supreme Court reported in Kamlesh Verma Vs. Mayawati and Others, , it has been held that a repetition of old and over-ruled argument is not enough to reopen the concluded adjudications and that mere possibility of two views on the subject, cannot be a ground for Review. It is also observed therein that the appreciation of evidence on record is fully within the domain of the appellate Court and it cannot be permitted to be advanced in the Review Petition.

3. Further, in another recent decision of the Honourable Supreme Court reported in Dr. Subramanian Swamy Vs. State of Tamil Nadu and Others, , it has been observed in paragraph 52 as follows:

"52. Thus, even an erroneous decision cannot be a ground for the court to undertake review, as the first and foremost requirement of entertaining a review petition is that the order, review of which is sought, suffers from any error apparent on the face of the order and in absence of any such error, finality attached to the judgment/order cannot be disturbed. (Vide - Rajender Kumar and Others Vs. Rambhai and Others, ."

4. Thus, we find that the grounds raised in this Review Application are not the grounds warranting Review of the judgment. Accordingly, we find no merits in this Review Application, which is dismissed. No costs. The Miscellaneous Petitions are closed.