

TAMIL NADU ELECTRICITY BOARD AND ANR

A

v.

N. RAJU REDDIAR AND ANR

DECEMBER 20, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

B

*Practice and Procedure*

*Review—Dismissal of Special Leave Petition filed by Advocate-on-Record—After disposal of SLP another counsel filed review petition—After dismissal of review petition yet another counsel filed application for clarification—Deprecation of such a practice—Clarification application dismissed with exemplary cost—Held, it was abuse of process of Court—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 charge 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.*

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CIVIL APPELLATE JURISDICTION I.A. NO. 3 OF 1996.

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Civil Appeal No. 7496 of 1996

From the Judgment and Order dated 6.9.95 of the Madras High Court in O.S.A. No. 112 of 1987.

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T.L.V. Iyer, S. Udaya Kumar Sagar for the Appellants.

V. Krishnamurthy and V. Balachandran (NP) for the Respondents.

The following Order of the Court was delivered :

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It is a sad spectacle that new practice unbecoming and not worthy or conducive to the profession is cropping up. Mr. Mariaputham, Advocate-on-Record had filed vakalatnama for the petitioner-respondent when the special leave petition was filed. After the matter was disposed of, Mr. V. Balachandran, Advocate had filed a petition for review. That was also

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A dismissed by this Court on April 24, 1996. Yet another advocate, Mr. S.U.K. Sagar, has now been engaged to file the present application styled as "application for clarification", on the specious plea that the order is not clear and unambiguous. 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 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 an earlier stage. This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession. In Review Petition No. 2670/96 in CA No. 1867/92, a Bench of three Judges to which one of us, K, Ramaswamy, J., was a member, had held as under :

D "The record of the appeal indicates that Shri Sudarsh Menon was the Advocate-on-Record when the appeal was heard and decided on merits. The Review Petition has been filed by Shri Prabir Chowdhury who was neither an arguing counsel when the appeal was heard nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the Review Petition as if it is a rehearing of an appeal against our order. He did not confine to the scope of review. It would be not in the interest of the profession to permit such practice. That part, he has not obtained "No Objection Certificate" from the Advocate-on-Record in the appeal, in spite of the fact that Registry had informed him of the requirement for doing so. Filing of the "No Objection Certificate" would be the basis for him to come on record. Otherwise, the Advocate-on-Record is answerable to the Court. The failure to obtain the "No Objection certificate" from the erstwhile counsel has disentitled him to file the Review Petition. Even otherwise, the Review Petition has no merits. It is an attempt to reargue the matter on merits.

On these grounds, we dismiss the Review Petition".

H Once the petition for review is dismissed, no application for clarifica-

tion should be filed, much less with the change of the advocate-on-record. A  
This practice of changing the advocates and filing repeated petitions should  
be deprecated with heavy hand for purity of administration of law and  
salutary and healthy practice.

The application is dismissed with exemplary costs of Rs. 20,000/- as B  
it is an abuse of the process of court in derogation of healthy practice. The  
amount should be paid to the Supreme Court Legal Aid Services Commit-  
tee within four months from today. If the amount is not paid, it should be  
recovered treating this direction as decree of the Court by the Supreme  
Court Legal Services Committee. The Registry is directed to communicate  
this order to the Supreme Court Legal Services Committee. C

T.N.A.

Petition dismissed.