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SLP(C)No. 11114 OF 2000

ITEM No.39

Court No. 6

SECTION XII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.11114/2000

(From the judgement and order dated 20/04/2000 in CRP 562/2000
of The HIGH COURT OF MADRAS)

KANRAJ C. SHAH

Petitioner (s)

VERSUS

R. THANKARAJ & ANR.

Respondent (s)

(With prayer for interim relief)
(With office report)

Date : 23/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s) Mr. KV Vishwanathan, Adv.
Mr. Kunwar Ajit Mohan Singh, Adv.
Mr. Atul Kumar Sinha, Adv.
Mr. K.V. Venkataraman, Adv.

For Respondent (s) Mr. A.T.M. Sampath, Adv.
Mr. V Balaji, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed. No costs.

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(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
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(Arising out of SLP (C) No. 11114 of 2000)

Kanraj C. Shah ... Appellant

Vs.

R. Thankaraj and Anr. ... Respondents

O R D E R@@
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Leave granted.

Heard counsel for the parties.

The appellant herein filed a suit for declaration and injunction. Subsequently, the defendant-respondents moved an application for amendment of written statement filed by them. The said amendment application was allowed. In view of the said amendment, the plaintiff-appellant also moved an application for amendment of the plaint by incorporating therein that the unregistered sale deed is invalid. The said application was rejected by the trial court. A revision against the said order filed before the High Court was dismissed. However, the High Court permitted the plaintiff-appellant to lead evidence on the question of invalidity of the unregistered sale deed.

After we heard the matter, we find that, in view of the facts and circumstances of the case, the court was not justified in refusing to permit the plaintiff-appellant to amend the plaint. We, therefore, set aside the order under challenge and permit the plaintiff-appellant to amend the plaint. Accordingly, the application for amendment is allowed. However, it would be open to the defendant-respondents to raise any contention borne out from the written statement before the trial Court.

The appeal is allowed. No costs.

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.....J.
(V.N. KHARE)

.....J.
(N. SANTOSH HEGDE)

NEW DELHI
APRIL 23, 2001.