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SLP(C)No. 13512 OF 2004  
ITEM No.30

Court No. 1

SECTION XII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.13512/2004

(From the judgement and order dated 23/04/2004 in CRP (PD)687/04  
of The HIGH COURT OF MADRAS)

K. KANNAN

Petitioner (s)

VERSUS

K. JAYALAKSHMI

Respondent (s)

(With prayer for interim relief )

Date : 06/12/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI  
HON'BLE MR. JUSTICE G.P. MATHUR

For Petitioner (s)Mr. S. Nanda Kumar, Adv.  
Mr. Anuj Chauhan, Adv.

Mr. V.N. Raghupathy, Adv.

For Respondent (s)

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

Leave granted.

The appeal is allowed in terms of the signed order.

(Ajay Kr. Jain)

(Radha R. Bhatia)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2004  
(Arising out of S.L.P.(C) No. 13512 of 2004)

K. Kannan

....

Appellant

Versus

K. Jayalakshmi

....

Respondent

O R D E R

None appears for the respondent though served.  
Leave granted.

The appellant filed a suit for dissolution of marriage by a decree of divorce under Section 13 (1) of the Hindu Marriage Act, 1955 alleging cruelty on the part of the respondent. During the pendency of the suit the appellant moved an application under Order VI Rule 17 of the CPC seeking incorporation of a few facts by way of amendment in the plaint. A perusal of the application for amendment shows that the appellant has sought for pleading certain specific instances of alleged cruelty and conduct of the respondent in support of the relief already sought for in the plaint. The Trial Court rejected the application and a petition under Article 227 of the Constitution filed by the appellant also came to be dismissed by the High Court. Having carefully perused the contents of the application for amendment of the plaint and the plaint as initially filed, we are satisfied that the prayer for amendment could not have been refused. Under Order VI Rule 17 of the CPC the Court has discretion to permit any alteration or amendment in the pleadings of any party, if such amendment is necessary for the purposes of determining the real questions in controversy between the parties. The application for amendment was moved for this purpose. The Trial Court and the High Court were not, in our opinion, right in refusing the prayer for amendment.

The appeal is allowed. The order of the First Additional Judge Family Court dated 23.2.2004 and the order of the High Court dated 23.4.2004 are both set aside. The application under Order VI Rule 17 CPC dated 22.9.2002 shall stand allowed. The proposed amendment shall be incorporated in the plaint. Then the First Additional Judge Family Court shall proceed to hear and decide the case in accordance with law.

.....CJI.  
(R.C. LAHOTI)

.....J.  
(D.M. DHARMADHIKARI)

.....J.  
(G.P. MATHUR)

New Delhi  
December 06, 2004