

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(s).26517/2010

(From the judgement and order dated 20/07/2010 in CRP No. 2161/2010 of The HIGH COURT OF MADRAS)

C.GOVINDARAJULU & ORS. Petitioner(s)

VERSUS

V.BABUREDDY & ANR Respondent(s)

(With prayer for interim relief and office report )

Date: 21/02/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s)

Ms. Malini Poduval,Adv.

For Respondent(s)

Mr. S. Beno Bencigar, Adv.  
Mr. P. Soma Sundaram,Adv.

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.

(Deepak Mansukhani)  
Court Master

(M.S. Negi)  
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2007 OF 2011  
(Arising out of SLP(Civil) No. 26517 of 2010)

C.GOVINDARAJULU & ORS.

Appellant(s)

VERSUS

V.BABUREDDY & ANR

Respondent(s)

O R D E R

Leave granted.

2. The appellants filed a suit for declaration that the

agreement dated 14.7.2006 entered between the first respondent and second respondent was null and void and not binding on them and consequential mandatory and permanent injunction. After the evidence of the appellants was concluded, it was noticed that in the plaint due to a typographical error, the date of the agreement was wrongly mentioned as 14.7.2006 instead of the actual date of the agreement which was 4.7.2006. They, therefore, filed an application for amendment of the plaint under Order VI Rule 17 of the Code of Civil Procedure to amend the date of the agreement as 4.7.2006. The said application was dismissed on 15.3.2010 and the Revision Petition filed by him was dismissed on 20.7.2010. The said Order is challenged in this appeal by Special Leave.

3. The agreement in regard to which the declaration was sought was between the first respondent and second respondent and the appellant was not a party. When the suit was filed with reference to the said agreement, referring to its date as

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14.7.2006, the defendants did not point out that the date of the agreement was 4.7.2006 but they also referred to the date of the agreement as 14.7.2006. It is evident that there was a clerical or typographical error and both were referring to the agreement between the first respondent and second respondent, which is dated 4.7.2006, as agreement dated 14.7.2006.

4. Where the application for amendment is filed after the trial has commenced, the Court can permit the amendment, if it comes to the conclusion that in spite of due diligence, the plaintiff could not seek amendment before the commencement of trial. On the facts and circumstances, it is clear that the typographical error was not noticed and that immediately after it was noticed, an application was filed seeking correction.

5. In the circumstances, the appeal deserves to be allowed

and accordingly it is allowed and as a consequence, the appellants are permitted to amend the plaint, as prayed. It is needless to say that the defendants-respondents will have to be given due opportunity to file an additional statement and thereafter, the Court will proceed in accordance with law.

.....J.  
(R.V. RAVEENDRAN))

(A.K. PATNAIK)

.....J.

NEW DELHI  
FEBRUARY 21, 2011