

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(C) NO. 7105/2010

MATHAI @ JOBY

PETITIONER

VERSUS

GEORGE & ANR.

RESPONDENTS

J U D G M E N T

ANIL R. DAVE, J.

Learned counsel appearing for the parties have fairly submitted that in this Special Leave Petition an interim order passed in a suit has been challenged, but during the pendency of this petition, the suit has already been decided. Thus, this Special Leave Petition has become infructuous and it should be disposed of.

It is further noted that this Court has referred an issue with regard to powers to be exercised by this Court under Article 136 of the Constitution of India. On account of increasing pendency of cases in this Court, by virtue of an order dated 19.03.2010, this Court has referred the issue to the Constitution Bench with regard

to interpretation of Article 136 of the Constitution of India so as to restrict its scope, possibly with an intention to see that if this Court restricts its powers under Article 136, arrears of cases pending in this Court may not increase further. Much has been said with regard to the said issue especially in the following cases:

Pritam Singh vs. The State (1950) SCR 453 at page 457, this Court held as under:

"The points to be noted in regard to this article are firstly, that it is very general and is not confined merely to criminal cases, as is evident from the words "appeal from any judgment, decree, sentence or order" which occur therein and which obviously cover a wide range of matters; secondly, that the words used in this article are "in any cause or matter," while those used in Articles 132 to 134 are "civil, criminal or other proceeding," and thirdly, that while in Articles 132 to 134 reference is made to appeals from the High Courts, under this article, an appeal will lie from any court or tribunal in the territory of India.

On a careful examination of Article 136 along with the preceding article, it seems clear that the wide discretionary power with which this Court is invested under it is to be exercised sparingly and in exceptional cases only, and as far as possible a more or less uniform standard should be adopted in granting special leave in the wide range of matters which can come up before it under the this article. By virtue of this article, we can grant special leave in civil cases, in criminal cases, in income-tax cases, in cases which come up before different kinds of tribunals and in a variety of other cases. The only uniform standard which in our opinion can be laid down in the circumstances is that Court should grant special leave to appeal only in those cases where special

circumstances are shown to exist. The Privy Council have tried to lay down from time to time certain principles for granting special leave in criminal cases, which were reviewed by the Federal Court in Kapildeo v. The King. It is sufficient for our purpose to say that though we are not bound to follow them too rigidly since the reasons, constitutional and administrative, which sometimes weighed with the Privy Council, need not weigh with us, yet some of those principles are useful as furnishing in many cases a sound basis for invoking the discretion of this Court in granting special leave. Generally speaking, this Court will not grant special leave, unless it is shown that exceptional and special circumstances exist, that substantial and grave injustice has been done and that the case in question presents features of sufficient gravity to warrant a review of the decision appealed against. Since the present case does not in our opinion fulfill any of these conditions, we cannot interfere with the decision of the High Court, and the appeal must be dismissed."

*Penu Balakrishna Iyer & Ors. Vs. Ariya M. Ramaswami Iyer &*

*Ors.* (1964) 7 SCR 49 at page 53 this Court held as under:

"..... Even so, we do not think it would be possible to lay down an unqualified rule that leave should not be granted if the party has not moved for leave under the Letters Patent and it cannot be so granted, nor is it possible to lay down an inflexible rule that if in such a case leave has been granted it must always and necessarily be revoked. Having regard to the wide scope of the powers conferred on this Court under Art. 136, it is not possible and, indeed, it would not be expedient, to lay down any general rule which would govern all cases. The question as to whether the jurisdiction of this Court under Art. 136 should be exercised or not, and if yes, on what terms and conditions, is a matter which this Court has to decide on the facts of each case."

Once again in Union Carbide Corporation & Ors. vs. Union of India & Ors. 1991 (4) SCC 584, this Court in para 58 held as under:

"This Court had occasion to point out that Article 136 is worded in the widest terms possible. It vests in the Supreme Court a plenary jurisdiction in the matter of entertaining and hearing of appeals by granting special leave against any kind of judgment or order made by a Court or Tribunal in any cause of matter and the powers can be exercised in spite of the limitations under the specific provisions for appeal contained in the Constitution or other laws. The powers given by Article 136 are, however, in the nature of special or residuary powers which are exercisable outside the purview of the ordinary laws in cases where the needs of justice demand interference by the Supreme Court. [See *Durga Shankar Mehta v. Thakur Raghuraj Singh & Others* (1955) 1 SCR 267]".

Upon perusal of the law laid down by this Court in the aforesaid judgments, in our opinion, no effort should be made to restrict the powers of this Court under Article 136 because while exercising its powers under Article 136 of the Constitution of India, this Court can, after considering facts of the case to be decided, very well use its discretion. In the interest of justice, in our view, it would be better to use the said power with circumspection, rather than to limit the power forever.

In the circumstances, we do not see any reason to answer the issue which has already been answered in the aforesaid judgments. We are of the opinion that no further elaboration is required on the issue involved in this case.

The Special Leave Petition is dismissed as infructuous.

.....J.  
[ANIL R. DAVE]

.....J.  
[KURIAN JOSEPH]

.....J.  
[SHIVA KIRTI SINGH]

.....J.  
[ADARSH KUMAR GOEL]

.....J  
[ROHINTON FALI NARIMAN]

NEW DELHI;  
JANUARY 11, 2016.

ITEM NO.502

COURT NO.2

SECTION XVI

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 (C) No(s). 7105/2010

(Arising out of impugned final judgment and order dated 09/11/2009 in WP No. 31726/2009,09/11/2009 in WP No. 31726/2009 passed by the High Court Of Kerala At Ernakulam)

MATHAI @ JOBY

Petitioner(s)

VERSUS

GEORGE &amp; ANR.

Respondent(s)

Date : 11/01/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ANIL R. DAVE  
HON'BLE MR. JUSTICE KURIAN JOSEPH  
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH  
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Mr. C. N. Sree Kumar, Adv.  
Mr. Amit Sharma, Adv.  
Mr. Rahul Kumar, Advb.

For Respondent(s) Mr. S.K. Jain, Sr. Adv.  
Mr. Abhinav Gupta, Adv.  
Mr. Manu Maheshwari, Adv.  
Mr. Ankita Gupta, Adv.

Mr. Ardhendumauli Kumar Prasad, Adv.  
Mr. Nirmal Ambastha, Adv.  
Ms. Taruna Prasad, Adv.  
Mr. Aviral Shukla, Adv.  
Mr. P.Chandrao, Adv.

Mr. Ajeet Kumar Sinha, Sr. Adv.  
Mr. Gaurav Bhatia, Adv. (for SCBA)

Ms. B. Sunita Rao, Adv.  
Mr. Dilip Tandon, Adv.

Mr. Vipin Nair, Adv.

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

The Special Leave Petition is dismissed as infructuous in  
terms of the reportable judgment.

(Ashwani Thakur)	(Sneh Bala Mehra)
COURT MASTER	ASSTT. REGISTRAR
(Signed reportable judgment is placed on the file)	