

### **I.L.R. – Latest decisions – 24/01/2024**

Grant of leave to institute suit—Issuing notice to defendants before granting leave under Section 92 of CPC is not mandatory, though it is desirable - Prabhakaran P.V. v. Lalitha Neelakandan, I.L.R. 2024 (1) Kerala 357. Neutral citation – 2023:KER: 83998

Standard Operating procedure on personal appearance of Government Officials in Court proceedings framed—All High Courts directed to follow the SOP - State of Uttar pradesh v. Association of Retired Supreme Court and High Court Judges at Allahabad, I.L.R. 2024 (1) Kerala 275 (S.C.). Neutral citation – 2024 INSC 4

Courts should rely on Law officers representing the Government—Constantly summoning officials of the government instead of relying on the law officers representing the government, runs contrary to the scheme envisaged by the Constitution—State of Uttar pradesh v. Association of Retired Supreme Court and High Court Judges at Allahabad, I.L.R. 2024 (1) Kerala 275 (S.C.). Neutral citation – 2024 INSC 4

Chief Justice of High Court does not have the power to frame rules about post-retiral benefits for former judges—The High Court cannot direct the State Government to enact rules on a particular subject, by a Writ of Mandamus or otherwise - State of Uttar pradesh v. Association of Retired Supreme Court and High Court Judges at Allahabad, I.L.R. 2024 (1) Kerala 275 (S.C.). Neutral citation – 2024 INSC 4

Criminal contempt proceedings cannot be initiated against a party for availing his legal remedy—Summary procedure under Section 14 of Contempt of Courts Act,1971 cannot be invoked as a matter of routine and is reserved for only extraordinary circumstances -State of Uttar pradesh v. Association of Retired Supreme Court and High Court Judges at Allahabad, I.L.R. 2024 (1) Kerala 275 (S.C.). Neutral citation – 2024 INSC 4

Clear and unambiguous meaning of Section 28(8) of Kerala Co-operative Societies Act, 1969 would be that only President of Anand Pattern Milk Cooperative Societies are eligible to attend general body meetings and contest elections to Managing Committee of Regional Milk Producers Union – However, delegates sent by all member societies can vote in the elections—Right to vote in the election is conspicuously absent from the wordings provided in Section 28(8) -Administrative Committee v. Gopalakrishna Pillai, I.L.R. 2024 (1) Kerala 320. Neutral citation – 2023: KER : 80866.

Co-operative societies which are under winding up proceedings under Section 71 of Kerala Co-operative Societies Act, 1969 and which are administered by a Liquidator

appointed under Section 72, cannot be permitted to nominate any person to participate and cast vote in any other society, on its behalf— Vypin Rural Housing Co-operative Society Ltd. v. State Co-operative Election Commission, I.L.R. 2024 (1) Kerala 338. Neutral citation – 2023: KER: 79878

Where words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than literal rule— Administrative Committee v. Gopalakrishna Pillai, I.L.R. 2024 (1) Kerala 320. Neutral citation – 2023:KER: 80866

Section 68 of Kerala Co-operative Societies Act, refers to the conduct of individual persons and not collective conduct of a ‘committee’—Contention that the word ‘person’ would also include ‘committee’ cannot be sustained—For the purpose of surcharging individuals, there has to be a finding regarding involvement of such persons mentioned in the provision, in the manner provided therein—Once the individual liability of each petitioner has been established, the total amount owed to the society will be calculated based on the actual loss it has sustained— Vincent Y.R. v. Joint Registrar of Co-operative Societies, I.L.R. 2024 (1) Kerala 344. Neutral citation – 2023:KER: 81055

A borrower who was under severe stress even before Covid-19 pandemic period, which had potentially impacted its long-term viability before the pandemic period, is not entitled to claim the reliefs provided in the resolution framework announced in circulars of the Reserve Bank of India—Circulars are intended to enable the borrowers to tide over the economic fallout from Covid-19 pandemic - South Indian Bank Ltd. v. Pathas Textiles, I.L.R. 2024 (1) Kerala 297. Neutral citation – 2024: KER: 161.

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