

Joint Registrar of Co-operative Societies vs Y R Vincent & Ors⁽¹⁾:

A Troubling Precedent or *Per Incuriam*?

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1. Whether the same ‘expression or word’ appearing in multiple places of the same statute can be given different meanings? Whether meaning of a term provided under General Clauses Act, 1897, be imported to a statute in complete disregard of the context of the statutory provision? What would be the effect of a judgement by a later Division Bench without taking note of the law earlier laid down by another Division Bench? After affirming a judgement on merits, which is relied upon by other Single Benches, can the Division Bench reverse the same judgement at the instance of a different party while the review petition filed by the said party was pending? The questions which arose while analysing the aforesaid judgement are interesting yet unique too.

2. The relevant provisions which are to be kept in mind before proceeding further would be Section 68 of the Kerala Co-operative Societies Act, 1969 (hereafter KCS Act) and Rule 66(7)(ii) of the Kerala Co-operative Societies Rules 1969 (hereafter KCS Rules). Section 68 of KCS Act deals with the question of imposing surcharge upon the persons who are responsible for the loss caused to the society which is unearthed in an audit under Section 63, or inquiry under Section 65 or inspection under Section 66. It was held by the Hon’ble Court on multiple instances that mere wrongful payment does not attract surcharge, for which there has to be an element of deliberate/willful negligence or mens-rea, as discernible from **AK Francis vs Joint Registrar⁽²⁾** and **T H Mustaffa vs State of Kerala & Ors⁽³⁾**. A similar view as in **AK Francis** (supra) was taken by the Hon’ble Supreme Court in **Pollachi Co-operative Marketing Society vs K N Valuswami⁽⁴⁾**, under Tamil Nadu Co-operative Societies Act, 1961. Though a Division Bench in **Naveen Kumar vs Registrar of Cooperative Societies⁽⁵⁾**, did not approve the declaration of law in **AK Francis** (supra), the said judgement was rendered without taking note of the declaration in **Pollachi Co-operative Marketing Society** (supra). The precedential position set in **AK Francis** (supra) was approved by a Full Bench in **Anil MS vs Joint Registrar of Co-operative Societies & Ors⁽⁶⁾**. Rule 66(7)(ii) deals with the question of fixing the liability on an individual basis by specifically naming the person in the final order issued under Section 68(2). Section 68(2) and Rule 66(7)(ii) are reproduced herewith for reference;

(¹) I.L.R. 2025 Ker. OnLine 116 = 2025 K.H.C. 1770; (²) 1990 (2) K.L.T. 470; (³) I.L.R. 2021 (4) Ker. 74; (⁴) 1994 Supp. (3) S.C.C. 134; (⁵) I.L.R. 1998 (1) Ker. 170 = 1997 (2) K.L.T. 614; (⁶) I.L.R. 2021 (4) Ker. 5 (FB).



“68. **Surcharge:-** (1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organization or management of such society or who is or has, at any time been an officer or an employee of the society, has made any payment contrary to the Act and the rules or the bye-laws, or has caused to any loss or damage in the assets of the society by breach of trust, or wilful negligence or mismanagement or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned, an opportunity of being heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

(3) *****

“**Rule 66. Procedure for the conduct of inquiry and inspection:**

7(ii) On getting the inquiry report, the Registrar shall give the person or persons concerned an opportunity of being heard before issuing an order of surcharge. The order for surcharge shall be in writing and shall be sent under registered post with acknowledgment due. The order shall among things contain the following:

(a) *****

(b) name/names of person/persons responsible to repay or restore the money or any property or part thereof, by mentioning clearly the total amount involved due from each;”

3. Before delving any further, it would be apposite to put across the relevant aspects of Single Bench judgement in **Y.R. Vincent & Ors vs Joint Registrar & Ors**⁽⁷⁾, (hereafter **Y.R. Vincent 1**) and the Division Bench judgement in **Y.R. Vincent** (supra).

⁽⁷⁾ I.L.R. 2024 (1) Ker. 344



4. While considering the validity of surcharge order issued under Section 68(2) of the Kerala Cooperative Societies Act, 1969, a Learned Single Judge in **Y.R. Vincent 1**, after taking survey of entire precedents on the subject, declared that word 'person' in Section 68 would not include 'committee', and for the purpose of surcharging individuals, there has to be a finding regarding involvement/conduct of such persons mentioned in the provision, in the manner provided under Section 68, without which surcharge order cannot be imposed. The surcharge order was interfered with and remanded back to the Joint Registrar to pass fresh order in tune with the declarations rendered in **Y.R. Vincent 1**. The finding of the Learned Single Judge in **Y.R. Vincent 1**, is as follows;

“14. A reading of the Section would show that it refers to “any person” and not to a ‘Committee’. If the intention was only to take action against the members of the Committee, the Section need not have referred to “any person entrusted with organisation or management of society” or “who is or has at any time been an officer or employee of the society”. The Section, in its plain meaning, does not permit an interpretation suggested by the Government Pleader. It refers to the conduct of individuals and not the collective conduct of the Committee. In contrast, there are provisions in the Act, which deal with the collective conduct of the Committee. As such, the contention of the Government Pleader that the word “persons” would also include the Committee cannot be sustained.”

*“16. ***** Applying the law laid down in the judgments referred to in the above paragraphs, I find that there is no specific finding regarding the involvement of the petitioners as is required under the statutory provisions, as explained in the decisions of this Court. It is evident from a reading of Section 68 and the manner in which the provision has been explained by this Court that what is required is not a finding which would justify a supersession of a Committee as provided for in Section 32 but a finding regarding the involvement of the persons mentioned in the provision, in the manner provided therein, for the purpose of surcharging them.”*

*“18. *****After rendering findings regarding the aspects that were the subject matter of inspection, suggestions are made in the report that for the financial discrepancies noted, action can be taken against the members of the Committee. Ext.P2, which*



is the Section 68(1) report, says that the Committee intentionally caused a loss to the Society and that the same has to be recovered from the members who constituted the Committee during the relevant period. While fixing the liability, what has been done is to show amounts under seven heads, which are the same in the case of all the persons who are found liable. There are absolutely no findings as to how each of them has been found liable on the different heads by either their presence during any decision taken or otherwise.”

5. The judgement in **Y.R. Vincent 1** (supra) was challenged at the instance of the respondent co-operative Society in **Arayoor Service Co-operative Bank Ltd No 692 vs Y.R. Vincent & Ors**⁽⁸⁾, and the Division Bench was pleased to dispose off the appeal after observing that “We are of the view that the finding of the Single Bench by remanding the matter is perfectly legal and justified”. A Learned Single Judge in **Johnson K vs Joint Registrar of Co-operative Societies & Ors**⁽⁹⁾, held that the aforesaid expression of Division Bench would certainly mean that Division Bench has confirmed the finding of the Learned Single Judge. The dictum in **Y.R. Vincent 1** was followed by other Single Benches in **Managing Committee of Mala Block Town Co-operative Society Ltd vs Joint Registrar of Co-operative Societies**⁽¹⁰⁾, and **Viswanathan Nair & Ors vs Unit Inspector & Ors**⁽¹¹⁾.

6. Then started the series of interesting events. Almost after one year since the judgement in **Arayoor Service Co-operative Bank** (supra), an appeal at the instance of Joint Registrar & State was filed with a delay condonation petition. While the appeal was considered on 24-02-2025, a preliminary objection was taken by the writ petitioners that the Government had agreed to the suggestion of remand and did not challenge the directions given to the Registrar to adhere to the directions of the Single Bench for fixing the liability individually. The matter was adjourned to enable the Learned Government Pleader to take appropriate remedy in accordance with law so as to assail the finding in **Arayoor Service Co-operative Bank** (supra) wherein it was observed that “We are of the view that the finding of the Single Bench by remanding the matter is perfectly legal and justified”. An interim order to the said effect was passed by the Division Bench on 24-02-2025 in WA 1620 of 2024⁽¹²⁾. As submitted before the Division Bench, a review petition came to

(⁸) Judgment dated 18.01.2024 in W.A. No.95 of 2024 (Neutral Citation No.2024:KER:4862); (⁹) I.L.R. 2024 (3) Ker. 502; (¹⁰) I.L.R. 2024 (3) KER. 131; (¹¹) I.L.R. 2024 (4) KER. 1142; (¹²) <https://hckinfo.keralacourts.in/digicourt/Casedetailssearch/fileview?token=MjEINDAwMDE2MjAyMDI0XzIucGRm&lookups=b3JkZXJzL2ludGVyaW1vcnRlcj8yMDI0>



be filed at the instance of Joint Registrar & State as RP 296 of 2025 in WA 95 of 2024, with a delay of 376 days.

7. The writ appeal, W.A. No.1620 of 2024 was considered by the Division Bench on 04-03-2025, whereas the review petition, R.P. No.296 of 2025 was pending and yet to be considered. Interestingly, it is also to be borne in mind that the Bench which disposed off **Arayoor Service Co-operative Bank** (supra) was a different Bench though the Senior Judge in the Bench was one and the same. On that day, the Bench allowed the writ appeal preferred by the Joint Registrar & State and reversed the judgement in **Y.R. Vincent 1**, by way of **Y.R. Vincent** (supra). Almost three weeks later, the review petition was considered and it was closed after noting that the judgement in **Y.R. Vincent 1** stands reversed in **Y.R. Vincent** (supra)⁽¹³⁾.

8. The Division Bench in **Y.R. Vincent** (supra) held that reasoning of the Single Bench that the expression “any person” could not mean the member of the committee is not a correct interpretation for the reason that the person mentioned in Section 68 would also include in the management committee. It was further held that as per the provisions of Section 3(42) of the General Clauses Act, the persons shall also include a company or association or body of the individuals and Section 9 of the Co-operative Societies Act prescribes the registration of the Society shall render it to a body cooperate. Reliance was placed on **Mahendran v. Joint Registrar of Co-operative Societies (General)**⁽¹⁴⁾, by the Division Bench to come to the aforesaid conclusion. The relevant portions of the Division Bench judgement are reproduced herewith for reference;

“22. The reasoning of the Single Bench that the expression “any person” could not mean the member of the committee, in our considered view, is also not a correct interpretation for the reason that the person mentioned in Section 68 would also include in the management committee as per the ratio decidendi culled out in Mahendran v. Joint Registrar of Co-operative Societies (General).

23. Section 2(e) of the Kerala Co-operative Societies Act defines the ‘committee’, which means a governing body of the Co-operative Society by whatever name it is called, to which the Management of the affairs of the Society is entrusted, whereas Section 2 defines the officer. Thus by going by the provisions of Section 2(e), the

⁽¹³⁾ Order dated 27.03.2025 in R.P. No.296 of 2025 (Neutral Citation No.2025:KER:27750); ⁽¹⁴⁾ 2019(3)K.L.T.627



person mentioned in Section 68 would also include the managing committee members. Even otherwise, as per the provisions of Section 3(42) of the General Clauses Act, the persons shall also include a company or association or body of the individuals and Section 9 of the Co-operative Societies Act prescribes the registration of the Society shall render it to a body cooperate.”

9. Though the judgement of Division Bench in **Y.R. Vincent** (supra) was challenged before the Hon’ble Supreme Court, the Hon’ble Supreme Court permitted the parties to avail the statutory remedy without being influenced by the observations in the impugned order. The Special Leave Petition was accordingly dismissed as withdrawn with the said liberty⁽¹⁵⁾.

10. Having explained the aspects involved in **Y.R. Vincent** (supra), it is time to answer the questions posed in beginning of the article.

11. A word or expression used at several places in one enactment is to be given same meaning so as to avoid “a head-on clash” as explained by the Constitutional Bench of Hon’ble Supreme Court in **Central Bank of India vs Ravindra**⁽¹⁶⁾. The Court held that *“Ordinarily, a word or expression used at several places in one enactment should be assigned the same meaning so as to avoid “a head-on clash” between two meanings assigned to the same word or expression occurring at two places in the same enactment. It should not be lightly assumed that “Parliament had given with one hand what it took away with the other”. That construction is to be rejected which will introduce uncertainty, friction or confusion into the working of the system. While embarking upon interpretation of words and expressions used in a Statute it is possible to find a situation when the same word or expression may have somewhat different meaning at different places depending on the subject or context. This is however an exception which can be resorted to only in the event of repugnancy in the subject or context being spelled out. It has been the consistent view of Supreme Court that when the Legislature used same word or expression in different parts of the same section or statute, there is a presumption that the word is used in the same sense throughout. More correct statement of the rule is, as held by House of Lords in Farrell v. Alexander, [1976] 2 All E.R. 721, 736, “where the draftsman uses the same word or phrase in similar contexts, he must be presumed to intend it in each place to bear the same meaning”*. The same line of thought can also be seen in **Boghilal Pandya vs State of Bombay**⁽¹⁷⁾, **Lal Chand (dead) by LRs and Others vs**

⁽¹⁵⁾ Order dated 28.07.2025 in SLP(C) No.19771 of 2025; ⁽¹⁶⁾ (2002) 1 S.C.C. 367; ⁽¹⁷⁾ A.I.R. 1959 S.C. 356



Radha Kishan⁽¹⁸⁾, and **Hyder Consulting (UK) Limited vs Governor, State of Orissa**⁽¹⁹⁾. However, this is not an absolute proposition as held by the Hon'ble Supreme Court in **Shamrao Vishnu Parulekar & Another vs District Magistrate, Thana & Others**⁽²⁰⁾, and a different construction can be adopted for the same word, only after assigning sufficient reasons for the departure.

12. The term 'person' doesn't appear only in Section 68, but also finds a place in many other parts of the statute (at least in 100 places), Section 66 being one amongst it. The term 'person' in the provision with respect to inspection into the affairs of the co-operative society was examined by a Learned Single Judge in **Wayanad District Police Co-operative Society & Anr vs Registrar of Co-operative Societies, Tvm & Ors**⁽²¹⁾. The relevant provisions of Section 66 are reproduced herewith for reference purpose;

66. Supervision and Inspection. - (1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently, as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

(2) The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorized by him, by order in writing in this behalf, to inspect the books of the society:

13. The relevant observations in **Wayanad District Police Co-operative Society** (supra) with respect to usage of word '**person**' is reproduced hereunder;

*" 17. Thus, under both sub-sections 1 and 2, the legislature has advisedly employed the expressions of very wide amplitude. Perhaps, with a view to giving sufficient leverage to the second respondent as regards the affairs of the society, it has employed the expression 'a person' instead of a specific designation. It is neither unusual nor uncommon in departmental parlance: Sometimes the task of enquiry will be assigned to a particular designated Officer; but most times, a person of competence and integrity—without reference to the designation, and this includes an outsider as well—could be assigned the task. ****"*

18. The reason for the legislature employing the expression 'a person or any person' is not far to seek: banking, be it of even

(¹⁸) (1977) 2S.C.C. 88; (¹⁹) (2015) 2S.C.C. 189; (²⁰) A.I.R. 1957 S.C. 23; (²¹) 2016 K.H.C. 580



*Cooperative societies, is a complex financial business: either supervision or inspection, at times, needs expertise.” *****

14. The Hon'ble Court in **Wayanad District Police Co-operative Society** (supra) interpreted the word 'person' in its literal sense and this aspect was not brought to the notice of the Division Bench in **Y.R. Vincent** (supra). Moreover, the Division Bench did not take note of the specific provision of Rule 66(7)(ii)(b) which provides for naming the concerned person who has caused loss to the society. The Division Bench also did not assign any special reason for giving 'person' the meaning under Section 3(42) of the General Clauses Act, when the context did not warrant such an interpretation. It would be relevant to note that the statute itself provides for 'body of persons' in three places, namely Section 6 (Application for registration), 16 (Persons who may become members) and 21 (Manner of exercising vote), which completely escaped the notice of Division Bench⁽²²⁾. The Division Bench in **Y.R. Vincent** (supra) places reliance upon **Mahendran** (supra) so as to reverse the finding in **Y.R. Vincent 1** to point out that 'persons' in Section 68 would include managing committee members whereas another Learned Single Judge in **Mathew M J & Ors vs State of Kerala & Ors**⁽²³⁾, observed that **Mahendran** (supra) does not contain such a finding. The Learned Single Judge in **Y.R. Vincent 1** explains that before mulcting a person with any liability by way of an order of surcharge under Section 68(2), it should be shown how he caused loss to the society on account of his individual conduct. It was cautioned that the collective conduct as 'committee' cannot be brought within the ambit of surcharge under Section 68(2) unless the individual element is proved. A Learned Single Judge of Bombay High Court under the domain of Maharashtra Co-operative Societies Act, 1960, while discussing Section 88, which is akin to Section 68 of the Kerala Act, delivered a detailed judgement after an extensive discussion answering how individuals can be mulcted with financial liability under the statute and what are its prerequisites, in **Sanjeev Bhaskar Pathak vs State of Maharashtra & Ors**⁽²⁴⁾. Unfortunately, the Division Bench in **Y R Vincent** (supra) does not answer this aspect at all. Added to that, the Division Bench also did not bother to refer the precedents cited by the Learned Single Judge in **Y R Vincent 1**.

(22) As on date, vide amendment carried out to the KCS Rules through SRO 1203/2024, 'person' includes Government, the Local Self Government Institutions and Co-operative Societies, which was not there earlier;

(23) Judgment dated 12.12.2025 in WP(C) No.14410 of 2025 (Neutral Citation No.2025 : KER:95611);

(24) Judgment dated 17-10-2025 in WP(C) No.10750 of 2022 (Neutral Citation No.2025 : BHC - AS:45521).



15. It is relevant to note that while deciding the previous round of litigation preceding **Y R Vincent 1**, i.e, **Y R Vincent & Ors vs Joint Registrar & Ors**⁽²⁵⁾ (hereafter **Y R Vincent 2**) the then Single Bench have also considered the relevance of “**person**” concerned u/s 68 (1) of the KCS Act, 1969. The Learned Single Judge in para 9 of **Y R Vincent 2** held as follows:-

“9. *****

As held supra, what is being enquired into in a proceeding under Section 68 of the Act is, into the conduct of a “person” in management, who in a preceding inquiry is found to have caused loss to the Society. The extent of loss caused by “such person”, while in management, is being ascertained. Therefore, a person who assumed office subsequent to the period in respect of which the preceding enquiry or inspection was conducted, cannot be roped in a proceeding under Section 68.”

The above observations also assertively indicate that the inquiry contemplated under Section 68 (1) of the KCS Act, 1969 is particularly in relation to a “person” (individual) who is/was in the management of affairs of the society and that it is not in relation to a collective body or association.

16. Furthermore, every person who is in the elected managing committee during their term might not be a participant in all of their meetings or a signatory to all of the resolutions taken by the committee. It is a common allegation in the proceedings leading to surcharge that loss is allegedly caused upon the society due to wrong resolutions taken by the committee. But the very fact that whether all of the elected committee members are signatories to all such resolutions is not verified at such instances by the inspectors/ inquiry officers concerned nor does the said fact reflects in the preliminary inquiry/ inspection reports as well. When Section 68 (1) of the KCS Act, specifically requires for an inquiry into the conduct of ‘such person’ who had allegedly caused any loss to the society, the fact that whether that particular person was ever even a signatory to that resolution leading to the alleged loss is a pivotal and primary issue to be verified by the inspectors / inquiry officers concerned with the fact finding inquiry/ inspection. Unless that is done, a “person” concerned cannot be actually made liable for the consequence of a wrong resolution to which he was not even a signatory, and this principle was endorsed in **Sanjeev Bhaskar Pathak**(supra). In this regard as well, the relevance of the expression “person”

(²⁵) Judgment dated 21-02-2022 in WP(C) No.12783 of 2021 (Neutral Citation No.2022 : KER: 8820)



mentioned in Section 68 (1) of the KCS Act, gather significance, and the reasoning of the Division Bench judgment in **Y R Vincent**(supra) runs contrary to this essential aspect.

17. It is trite that the entire scheme of a statute is relevant to understand the importance of expressions and provisions used in the same. Under the scheme of the KCS Act and Rules, every person cannot be in the management of a co-operative society. Only a **“member”** of a society can contest for the election to the committee and become a managing committee member, who is eventually entrusted with the management of the society. In relation to an individual, no person other than a member of a society can be entrusted with the management of the affairs of the society as per Section 28 of the KCS Act. Rule 35 A of the KCS Rules also clarifies the position that an individual / person included in the voter list and eligible to contest the elections to the committee can contest so and become a managing committee member. There is no dispute in it. Section 2 (1) of the KCS Act, 1969 defines “member” as follows:-

Section 2 (1) :- “Member” means “**a person**” joining in the application for the registration of a co-operative society or “**a person**” admitted to membership after such registration in accordance with this Act, the rules and the byelaws and includes a nominal or associate member.

Further, the relevant provisions of Section 16 (1) of the KCS Act, 1969 deals with “**Persons**” who may become members, as to an individual, which reads as follows:-

Section 16 (1):- Persons who may become members:- (1) No “**person**” shall be admitted as a member of a society except the following **namely-**

(a) “**an individual**”-

(i) who has attained the age of eighteen years;

(ii) who is not of unsound mind;

(iii) who is a resident within, or is in occupation of land in the area of operation of the society;

The above definition clarifies without any doubt that the **person** who is or was entrusted with the management of the society as referred to in Section 68 (1) of the KCS Act is none other than a natural living individual who is a member of the society



itself as noted in Sections 2 (1) r/w 16 (1) of the KSC Act. Under the definition of a person who may be entitled to get membership under Section 16 of the KCS Act, “Committee” as a collective body is evidently excluded. If the legislature had any intention to include the “committee” as a whole, meaning to be a **person**, it would have simply and easily stated “committee” in the wordings of Section 68 (1) of the Act. Rather the legislature carefully used the expression...*any person who is or was entrusted with the management of the society*..... Hence no external aids of interpretation is needed to find out the context of the expression “person” used in Section 68 (1) of the Act in the light of Section 2 (1) & Section 16 (1) (a) of the Act. Therefore, there is no question of application of the General Clauses Act, to bring in the ‘inclusive definition’ of ‘person’ defined under the General Clauses Act, particularly into the reading of the expression “person” referred to under Section 68 (1) of the Act. Thus, the fact that the KCS Act, 1969 itself does not define the expression ‘person’ cannot be a reason at all to bring in the General Clauses Act into play, for the aforesaid reason that the scheme of the KCS Act, all the way does put it in precise terms that only a natural living individual / person can be a member of a society who alone can eventually become a managing committee member, whose particular conduct is put to scrutiny under the provision of Section 68 (1) of the KCS Act. To that extent, the reference made by the Division Bench judgment in **YR Vincent** (supra) to the provisions of General Clauses Act to bring in the inclusive definition of expression ‘person’ into the scheme of Section 68 (1) of the KCS Act, is unjustified and contrary to the spirit and purport of the legislative intention behind the said provision.

18. Moving further, the question of individual conduct in surcharge proceedings was considered by a Division Bench in **C Ahammadvutty vs The Deputy Registrar of Co-operative Societies & Ors**⁽²⁶⁾, under the context of Madras Co-operative Societies Act, 1932. The Division Bench was dealing with Section 49(1) of the Madras Act and held that it is conduct of the person that has to be considered for imposing an order of surcharge. The relevant portion in **Ahammadvutty** (supra) is reproduced herewith for reference purpose;

6. **** The words ‘examine into the conduct of s person’ are used with reference to the words ‘any person who has taken part in the administration’ indicating that the Registrar is to examine the conduct of only such person as has been found in the report of audit, enquiry or inspection to have misappropriated money or property of the society.’

⁽²⁶⁾ I.L.R. 1973 (1) Ker. 19 = 1973 K.L.T 209



The decision reported in **Ahammadkutty** (supra) also affirms the aspect on individual liability rather than the role of a collective committee in surcharge proceedings.

19. Though not totally identical, the provisions in the Madras Act are almost similar in nature to that of Kerala Act as observed by the Court in **A K Francis** (supra). While that be the position, the judgement of Division Bench in **Y R Vincent** (supra) is per incuriam, in as much as it did not take note of the Division Bench in **Ahammadkutty** (supra). A decision rendered by ignorance of a previous binding decision of its own or of a court of coordinate or higher jurisdiction or in ignorance of the terms of a statute or of a rule having the force of law is per incuriam (See **Bilkis Yakub Rasoolvs Union of India**⁽²⁷⁾, and **Joseph Mathew vs State of Kerala**⁽²⁸⁾).

20. Moving on to the last question, i.e, whether the reversal of **Y.R. Vincent 1** was a permissible exercise when the review petition against the Division Bench judgement in **Arayoor Service Co-operative Bank** (supra) was pending consideration, deserves only an emphatic ‘no’. Judicial propriety demanded that the Division Bench ought to have decided the review petition in **Arayoor Service Co-operative** (supra) first before considering the writ appeal filed by the Joint Registrar and State on merits. This is for the reason that the finding in **Arayoor Service Co-operative Bank** (supra) to the effect “ *We are of the view that the finding of the Single Bench by remanding the matter is perfectly legal and justified*”. ; was binding even on the coordinate bench. It is also trite that there cannot be two appellate judgements over the same impugned judgment with divergent findings. The hallmark of a judicial pronouncement is its stability and finality. As observed by the Hon’ble Supreme Court in **Supertech Ltd. vs. Emerald Court Owner Residents Association**⁽²⁹⁾ “*judicial verdicts are not like sand dunes which are subject to the vagaries of wind and weather*”. It is all the more paradoxical to think that on the appeal of one party the Division Bench decided to affirm the findings of the Learned Single Judge, however on the appeal of the State the Division Bench with the same Senior Judge chose to reverse the same judgement. The Hon’ble Supreme Court recently highlighted the importance of judicial propriety and discipline in **Mary Pushpam vs Telvi Curusumary & Ors.**⁽³⁰⁾, while observing that the rule of ‘Judicial Discipline and Propriety’ and the Doctrine of precedents have a merit of promoting certainty and consistency in judicial decisions providing assurance to individuals as to the consequences of their actions.

21. In the opinion of the authors, the judgement in **Y.R. Vincent** (supra) does not reflect the correct legal position, as it was decided in ignorance of a binding

⁽²⁷⁾ (2024) 5 S.C.C. 481; ⁽²⁸⁾ 2025 (1) K.L.T. 394; ⁽²⁹⁾ (2023) 10 S.C.C. 817; ⁽³⁰⁾ (2024) 3 S.C.C. 224



precedent of another Division Bench in **Ahmedkutty** (supra), in ignorance of statutory provision Rule 66(7)(ii)(b), and without taking notice of the provisions wherein the term/expression 'body of persons' is specifically provided. The incidental aspect of only a member of the society can be the managing committee member which implies that person appearing in Section 68 can only be a natural person, was also ignored. The opinion with respect to the judicial propriety of overturning a judgement when another Bench had affirmed the same (during the pendency of the review petition), is already expressed in the penultimate paragraph of this article and is not being reiterated.

