

### **I.L.R. – Latest decisions – 10/01/2024**

Appellate authority has to pass an order under Section 12(3) of KBR Act if it finds that there is admitted arrears of rent payable by tenant and cannot relegate that duty to the rent control court - Mohammed Idries v. Noorudeen.M.K. I.L.R. 2024 (1) Kerala 110. Neutral citation – 2023: KER:71424.

The substantial question of law on which a second appeal shall be heard need not necessarily be a substantial question of law of general importance - As such, second appeal cannot be decided on equitable grounds and the conditions mentioned in Section 100 read with Order XLII Rule 2 of the C.P.C. must be complied to admit and maintain a second appeal - Mercy v. Agnus Maria E.J., I.L.R. 2024 (1) Kerala 145. Neutral citation – 2023: KER:76736.

An order dismissing a complaint should contain the reasons sufficient to inform the complainant that there was no sufficient ground for proceedings against the accused named in the complaint - Balamuraly G.. v. Vinod T.R., I.L.R. 2024 (1) Kerala 180. Neutral citation – 2023: KER:66603.

Though a party can invoke revisional jurisdiction of either the High Court or the Sessions Court, propriety demands the aggrieved, as far as possible, to first invoke the jurisdiction of the Sessions Court - Balamuraly G.. v. Vinod T.R., I.L.R. 2024 (1) Kerala 180. Neutral citation – 2023: KER:66603.

Property transferred while application for reclassification of land was pending— Later, conversion allowed—Subsequent purchaser should be granted the benefit of conversion order without obliging him to undergo the procedure prescribed under Section 27A by filing a fresh application - Somasekhara Panicker M.K. v. State of Kerala, I.L.R. 2024 (1) Kerala 172. Neutral citation – 2023: KER:79216.

Jurisdiction of courts in India over Indian Citizen abroad — High Court is competent to pass orders to protect the persons covered by Rights of Persons with Disabilities Act and the National Trust Act, even beyond the territorial limits—The court steps into the shoes of a parent invoking ‘parens patriae’ jurisdiction, only where the party concerned is not in a position to invoke jurisdiction of legal regime of the foreign Country - X v. Union of India, I.L.R. 2024 (1) Kerala 96. Neutral citation – 2023: KER: 80740.

‘Parens Patriae’ Jurisdiction—Obligation of the State to protect and take into custody the rights and privileges of it’s citizens for discharging its obligations—The State as well as the court are bound to protect the best interest of its citizen who are incapable

of making a decisions themselves - X v. Union of India, I.L.R. 2024 (1) Kerala 96. Neutral citation – 2023:KER:80740.

The banker has, in the absence of an agreement to the contrary, a general lien on all securities deposited with the banker by the customer to secure any outstanding balance — General balance of account would take in not only loan amount availed by customer as a principal debtor but also the liability due towards another loan account of which he is the guarantor—A writ petition seeking the return of title deeds from a public sector bank, claiming full settlement of all dues, is maintainable—Santhakumary Amma P. v. Indian Overseas Bank, I.L.R. 2024 (1) Kerala 159. Neutral citation – 2023: KER:74055.

Dissatisfied Councilor can challenge resolution of the Municipal Council before the Government under Section 57 of The Kerala Municipality Act, 1994 - Baburaj v. Janeesh P.S., I.L.R. 2024 (1) Kerala 95. Neutral citation – 2023: KER:79464.

If a Court of law directs payment of interim compensation, the order should reveal the reasons for passing the order—When discretion is given to a Court of law, it should be judiciously decided—It is the duty of Court to pass a speaking order while fixing quantum of interim compensation - Faizal Abdul Samad v. Sasindran A.N., I.L.R. 2024 (1) Kerala 138. Neutral citation – 2023: KER:74131.

Employees who got promotion to the category of Assistant Engineers in the Diploma Holders Quota cannot change over to the stream of Assistant Engineers who entered service in the Degree Quota, for further promotion—A person having been appointed to a higher category under the Diploma Quota cannot thereafter exercise option to switch over to Degree Quota for further promotion —Anoop V.S. v. Kerala Water Authority, I.L.R. 2024 (1) Kerala 115. Neutral citation – 2023: KER:73241.

Appointment of Advocate commission to ascertain the nature of the secured asset—To avail the exemption, the petitioner may have to further establish that the land in question was put to agricultural purposes at the time of creation of mortgage—This can be established by the petitioner by causing a local inspection - Jayakumar R. v. State Bank of India, I.L.R. 2024 (1) Kerala 131. Neutral citation – 2023: KER:78691.

Damages for use and occupation is the amount at which the landlord could have let out the premises on vacating the premises on the date of termination of tenancy—Landlord has to adduce evidence to prove this aspect - Abraham Varghese v. Kerala State Civil Supplies Corporation, I.L.R. 2024 (1) Kerala 154. Neutral citation – 2023: KER:77074.

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