



Indian Law Reports - Kerala Series

Abridged Index

ILR - Index of reported cases dt. 07.05.2025

Building Tax Act, 1974 (Kerala Act 10 of 1974)—Section 5—A trusswork constructed over the terrace of a building, is intended to protect the building from the harmful effects of weather—Such a roofing by itself, cannot result in the portion underneath the roof being assessed to tax under the Act as a residential or commercial building—The purpose of such a roof is to reduce the effects of sweltering heat hitting the concrete roof or as a protection from incessant rains—Since the area under the roof is concededly not fully enclosed, it cannot be subjected to tax under the statute— Merely because some materials are kept on the terrace portion of the building does not mean that the area under the truss work can be treated as plinth area to be assessed for tax under the statute, unless those materials are connected to the commercial activity being carried on in the remaining portion of the building, such as stock-in-trade - Xavier J. and another v. State of Kerala and others - I.L.R. 2025 Kerala OnLine 154: [Neutral Citation No. 2025:KER:23364.](#)

Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017)—Sections 73 and 74— While passing final order of adjudication, it presupposes that independent show cause notice is issued to the assessee for each different year of assessment while proceeding under Section 74—By issuing a composite notice, the assessing authority, cannot bypass the mandatory requirement of Section 73 to complete the assessment by relying on a larger period of limitation under Section 74(10)—Writ petition is maintainable against a show-cause notice, wherein challenge would go to the root of jurisdiction of the proper officer—Constitution of India—Article 226 - M/s.

Tharayil Medicals v. Deputy Commissioner and another - I.L.R. 2025 Kerala OnLine 149 : [Neutral Citation No.2025:KER:30805.](#)

Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order 5 Rule 1, Order 8 Rule 1 & 10, and Order 37—In the case of a commercial suit filed under Order 37, right of a defendant to defend the suit arises only on grant of leave—Going by proviso to Rule 1 and Order 8 Rule 1, defendant can file a written statement within 30 days from the date of granting leave, which can be extended by the Court for reasons to be recorded in writing, but it shall not be later than 120 days from the date of grant of leave—Intention of legislature in fixing a time limit of 120 days explained—Commercial Courts Act, 2016 (Central Act 4 of 2016)—Section 16 - M/s. Capital Retreat Private Limited v. Gopakumar B. Nair - I.L.R. 2025 Kerala OnLine 156: [Neutral Citation No. 2025:KER:26418.](#)

Constitution of India—Article 21—Wrongful prosecution and conviction violate Article 21 of the Constitution and entitle victims to compensation under public law, in addition to other private law remedy in tort— Directions issued to the State to take action on the recommendations for compensation and accountability - Babu Rajan v. State of Kerala and others - I.L.R. 2025 Kerala OnLine 158 : [Neutral Citation No. 2025:KER:23471.](#)

Customs Act, 1962 (Central Act 52 of 1962)—Sections 114, 114A and 129D—An assessee cannot be prejudiced to a greater extent than what he was at the time of preferring an appeal before the First Appellate Authority—First appellate authority cannot enhance the penalty amount in an appeal preferred by the assessee, without issuing show cause notice proposing an enhancement of penalty—In matters of taxation, the principle of fairness have to be adhered to and notices proposing enhancement have to be clear and unambiguous so as to enable an assessee to meet the case against it, effectively - M/s. Southern Gold Private Ltd. and another v. Commissioner of Customs (Appeals) and others -I.L.R. 2025 Kerala OnLine 151 : [Neutral Citation No. 2025:KER:30463.](#)

Family Courts Act, 1984 (Central Act 66 of 1984)—In cases where wife alleges entrustment of Gold ornaments to the husband or his family and the husband denied such entrustment, the Court need not insist on strict proof of such entrustment—Due to private and often informal nature of such transfers, it becomes merely impossible for women to produce documentary evidence proving ownership or misappropriations—It is not about certainty or eliminating all doubts, but rather about weighing evidence to see which side presents a more probable scenario - Reshmi Radhakrishnan v. Vinod K.G. - I.L.R. 2025 Kerala OnLine 159 : [Neutral Citation No. 2025:KER:32891.](#)

Guardian and Wards Act, 1890 (Central Act 8 of 1890)—Section 12—Minor—Court exercised parens patriae jurisdiction and ordered that presence of children in Court Halls and in public areas of the Court premises, even for the purpose of counselling, or such other statutory proceedings, be ordered sparingly and with great caution—Even in cases where children are directed to be produced, every care ought to be taken to ensure that they are treated with the highest amount of dignity and privacy that any child would require; and are not made to wait ad infinitum for the proceedings to get over, but given preference, subject to the workload of the Court—Court issued guidelines with respect to place of exchange of the child for interim or final custody - Indu S. v. Thomas @ Manoj

-I.L.R. 2025 Kerala OnLine 157 : [Neutral Citation No. 2025:KER:29544.](#)

Land Assignment Rules, 1964 (Kerala)—Rule 6—High Court need not interfere with the order of an authority for lack of jurisdiction, when such a contention was never raised before the authority, coupled with the fact that the application of petitioner was directed to be considered by the said authority pursuant to the direction of High Court in a writ petition preferred by the petitioner—Even assuming that an order is passed by an authority having no jurisdiction, still the Court need not interfere with the same, if justice has been done—Constitution of India—Article 226 - Shanmughan M.P. v. State of Kerala and others - I.L.R. 2025 Kerala OnLine 153 : [Neutral Citation No. 2025:KER:23465.](#)

Negotiable Instruments Act, 1881 (Central Act 26 of 1881)—Sections 118 (a), 138 and 139—Presumption under Section 139 entails an obligation on the Court to presume that the cheque in question was issued by the drawer or accused in discharge of a debt or liability, which is a rebuttable presumption - Sushanth C.V. v. Kerala Vyapari Vyavasayi Edopana Samithi, Kannur District Committee and another - I.L.R. 2025 Kerala OnLine 152: [Neutral Citation No. 2025:KER:32527.](#)

Prisons and Correctional Services (Management) Act, 2010 (Kerala)—Section 72—Entitlement of remission arises only when an accused is convicted and admitted to prison for undergoing the sentence of imprisonment—The period of detention prior to conviction cannot be counted for remission—Prisons and Correctional Services (Management) Rules, 2014 (Kerala)—Rules 376, 379, 381 and 382 - Shyna P.A. v. State of Kerala and another - I.L.R. 2025 Kerala OnLine 150 : [Neutral Citation No. 2025:KER:32197.](#)

Specific Relief Act, 1963 (Central Act 47 of 1963)—Section 28—Decree passed by the trial Court merges with the appellate decree and in the case of a decree for specific performance, the contract between the parties is not terminated and the decree is in the nature of the preliminary decree—Suit is deemed pending even after the decree and the Court which passed the decree will not become functus

officio—When a decree passed by the Trial Court is corrected, invoking the remedy available under law, original decree merges with the corrected one— ‘Doctrine of merger’ explained - Cheekilode Premalatha v. Abdurahiman K.V. - I.L.R. 2025 Kerala OnLine 155 : [Neutral Citation No. 2025:KER:31226](#).

Travancore-Cochin Hindu Religious Institutions Act, 1950 (State Act 15 of 1950)—Section 31—‘Usage’ signifies a customary practice that has been continuously and uniformly observed in the temple over a long period—Words and phrases - Thiru Moozhikkulam Sreelakshmana Perumal Temple Advisory Committee v. Assistant Devaswom Commissioner and others - I.L.R. 2025 Kerala OnLine 160: [Neutral Citation No. 2025:KER:31561](#).

Please visit our website – www.ilrkerala.gov.in
