

Abridged Index

Latest decisions - 18/12/2024

The finding as to the mental capacity of a person in an enquiry under Order 32 Rule 15 of CPC does not have a bearing in the main proceedings—If there is a dispute with respect to mental capacity of such a person in the main proceeding, it has to be proved independently—Appellate Court has the power to determine the case finally after resettling the issues, if sufficient evidence is before it— Sherly D'Souza v. Marie Celine D'Souza, I.L.R. 2024 (4) Ker. 1068. Neutral citation – 2024:KER:78390

Right of media to freedom of speech and expression can be restricted only by a statute and that too only on grounds expressly mentioned in Article 19 (2)—Right under Article 19 (1) (a) must yield to right of individual under Article 21—Media would not be protected by Article 19 (1) (a) if it makes a definitive opinion about innocence or guilt of a party in a criminal investigation or case pending adjudication, before an authoritative pronouncement by the adjudicatory forum— Where the individual can establish that her right to dignity/reputation traceable to Article 21 will be infringed by act of media, she can approach the constitutional court to protect her right - Dejo Kappen v. Deccan Herald, I.L.R. 2024 (4) Ker. 991 (L.B.). Neutral citation – 2024: KER:82715

If orders are made assuming quasi-judicial powers where none exist, it would directly undermine the rule of law in the State—When authorities without judicial powers assume such powers and decide civil disputes, such decisions can be challenged in Writ jurisdiction—Clause 6 of KLU Order, 1967 does not contemplate resolution of a dispute between two individuals for irrigation supply— Sreedharan A. v. State of

Kerala, I.L.R. 2024 (4) Ker. 1030. Neutral citation – 2024 :KER: 73465

Award of the arbitrator cannot be challenged under Article 226, on the ground of insufficiency of compensation amount and the remedy lies in filing an application under Section 34 of Arbitration and Conciliation Act, 1996—High Court cannot entertain an application to set aside award beyond the extended period under the proviso to Section 34 (3)—A writ petition challenging an arbitral award beyond the stipulated time limit under Section 34, cannot be entertained— National Highway Authority v. Reji Philip, I.L.R. 2024 (4) Ker. 1035. Neutral citation — 2024 :KER: 75821

Rule 96(10) of the CGST Rules, as inserted by notification No 53/2018-CT is declared ultra vires, the provisions of Section 16 of the IGST Act and unenforceable on account of being manifestly arbitrary—Subordinate legislation must be subservient to plenary legislation—Words "subject to such conditions, safeguards and procedure as may be prescribed" in Section 16(3)(a)&(b) of IGST Act, and provisions of Section 20 of IGST Act and Section 54 of CGST Act, do not authorize imposition of conditions in such a manner that it would completely take away right granted under Section 16 of IGST Act— M/s Sance Laboratories Private Limited v. Union of India, I.L.R. 2024 (4) Ker. 1043. Neutral citation – 2024 :KER: 79782
