

### **I.L.R. - Latest decisions - 17/01/2024**

ADR Dispute resolution mechanism is applicable to proceedings before Rent control court—Section 89 of the CPC is applicable to Rent Control Court —Sindhu A.K. v. Nizar Kochery, I.L.R. 2024 (1) Kerala 205. Neutral citation - 2023:KER:79397

Order passed by Rent control court accepting the settlement between parties arrived at in mediation shall be executed before the Court having pecuniary jurisdiction to execute the order - Sindhu A.K. v. Nizar Kochery, I.L.R. 2024 (1) Kerala 205. Neutral citation - 2023:KER:79397

Pre-condition for an application under Order XXI Rule 58, CPC is that there must be an attachment of any property for execution of decree, and a claim or objection should have been made to attachment on the ground that such property is not liable for attachment—In case of a mortgage decree, the decree gives the decree-holder right to directly bring the property to sale - Federal Bank Ltd. v. Maniyoth Chandran, I.L.R. 2024 (1) Kerala 254. Neutral citation - 2023:KER:81860.

It is always desirable to consolidate all the related Execution Petitions and are proceeded jointly—All the debts realizable by the sharing decree holders shall be stated in the sale proclamation—No prejudice would be caused to Judgment debtor if various Execution Petitions are consolidated - M/s. Vijaya Marketing Associates v. M/s. Southern Blomoulders, I.L.R. 2024 (1) Kerala 199. Neutral citation - 2023:KER:79965.

Proper procedure to strike down an appeal due to failure of the appellant to pay balance court fee is rejection of the appeal and not dismissal of the appeal - Baby v. Chandramathy, I.L.R. 2024 (1) Kerala 250. Neutral citation - 2023:KER:80732.

Once it appears to the Magistrate that an offense is exclusively triable by the Court of Sessions, then, other than for considering matters relating to bail and remand as provided under clauses (a) to (d) of Section 209, Cr. P.C., the Magistrate has no implicit power to entertain any other matter, including an application under Section 321 - State of Kerala v. Shaji N.R., I.L.R. 2024 (1) Kerala 227. Neutral citation - 2023:KER:70000

It shall not be lawful for a person to print and publish any matter in relation to the inquiry or trial of rape or an offence under Sections 376, 376A, 376B, 376C, 376D or 376E of IPC except with the previous permission of the Court, that too subject to maintaining confidentiality of name and address of the parties, both the victim and the accused—The protection accorded to the parties under subsection (3) of Section 327 of Cr.P.C during trial or inquiry also applies to the stage of consideration of bail

application by the Magistrate or the Court - XXX v. Union of India, I.L.R. 2024 (1) Kerala 232. Neutral citation - 2023:KER:81860

Balancing public interest with individual's need for recognition of fundamental rights, by insisting on requisite qualifications in the matter of public employment, is a balancing act to be done by the State or recruiting agencies—Failing to consider pregnancy-related health issues and childcare responsibilities, which are recognized as fundamental rights, would constitute discrimination against women in the workplace - Athira P. (Dr.) v. State of Kerala, I.L.R. 2024 (1) Kerala 185. Neutral citation - 2023:KER: 79422

Settlement agreements, arrived at during the mediation and accepted by the Rent Control Court, are enforceable -Sindhu A.K. v. Nizar Kochery, I.L.R. 2024 (1) Kerala 205. Neutral citation - 2023:KER:79397

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Where the borrower agrees to repay the loan within a specified timeline and issues a cheque for security but defaults in repaying the loan within the timeline, the cheque matures for presentation—When the cheque is sought to be encashed by the debtor and is dishonoured, S.138 of the N.I. Act will be attracted - Thottathil Lakshmanan v. Kundathil Sobhana, I.L.R. 2024 (1) Kerala 264. Neutral citation - 2023:KER:80605

If the cheque is delivered for collection at a branch other than where payee or the holder in due course, maintains an account, the branch of bank where the payee or holder in due course maintains the account shall be treated as branch of the bank for the purpose of deciding the jurisdiction and for Section 142 (a) of N.I. Act - Jacob T.K. v. Nazeer K.H., I.L.R. 2024 (1) Kerala 271. Neutral citation - 2023:KER:67233

In cases where the law does not recognize the open court system, such as cases of rape and sexual offences where the trial is held in camera, any form of publication containing the identity of the 'parties' on the website or any other information system maintained by the court shall not be allowed - XXX v. Union of India, I.L.R. 2024 (1) Kerala 232. Neutral citation - 2023:KER:81860

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Transfer of parent of child with disability—If any of the rights of the disabled child is denied by absence of the parent, going by Section 5 of Chapter II of PWD Act, the transfer order passed, without advertng to such right of the child, becomes illegal - Balan C. v. Union of India, I.L.R. 2024 (1) Kerala 194. Neutral citation - 2023:KER:81860

Regularisation of temporary employees should be from the date of publication of Regulation—Government Order cannot override the provisions of the Kerala State

Waqf Board Regulations, 2016 - Kadija Beevi v. State of Kerala, I.L.R. 2024 (1)  
Kerala 218. Neutral citation - 2023:KER:83108 ..

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