



Indian Law Reports - Kerala Series

Abridged Index

Latest decisions - 23/10/2024

The method of appointment is inextricably connected with the standard or quality of education in technical institutions—The essence of the regulations made by the AICTE is to maintain educational standards, while the laws made by the State establish recruitment policies—If the court finds that the laws made by Parliament and the State cannot coexist, it must resolve the conflict, ruling that the State law becomes inoperative—The regulation framed under the Central enactment would prevail over the Rules framed under the Kerala Public Service Act— *Ajal Ramakrishnan v. Athira I.C.*, I.L.R. 2024 (4) Ker. 273. (F.B.). Neutral citation - 2024:IO:KER: 36

Retirement benefits such as Gratuity and Provident Fund, of an employee who has retired from service on attaining age of superannuation, cannot be withheld on the ground that order of surcharge has been passed against the employee— *Anamma Mathew v. Managing Committee of Mavelikara Taluk Co-operative Bank Ltd.*, I.L.R. 2024 (4) Ker. 328. [Neutral citation - 2024:KER: 68645](#)

There is no invariable rule that prescriptive easement of right of way cannot be claimed over ridges of paddy fields—There is strong presumption that user was only permissive and not as of right—Burden would be heavy upon the claimant to establish that user was 'as of right'— *Chirakkal Sankaran Nair (Died, LRs impleaded) v. Ponguzhi Parambath Sreedharan Nair*, I.L.R. 2024 (4) Ker.286. [Neutral citation - 2024:KER: 64436](#)

There should be a reasonably precise description of way— Easement being a precarious right and a right claimed over another man's land, it is to be specifically pleaded - Chirakkal Sankaran Nair (Died, LRs impleaded) v. Ponguzhi Parambath Sreedharan Nair, I.L.R. 2024 (4) Ker. 286. [Neutral citation - 2024:KER: 64436](#)

There is no power to issue fresh order of attachment after the period prescribed under Section 83(2) of GST Act, 2017 - Ali v. Additional Director General, I.L.R. 2024 (4) Ker.307. Neutral citation - 2024:KER: 60716

Where registered headload workers in a scheme-covered area possess the requisite skill and experience to handle sophisticated or delicate articles, they must be engaged for loading and unloading work—Although Section 9A of Headload Workers Act, 1978 provides an exemption for engaging skilled workers, Clause 6 of the Scheme mandates that only registered headload workers can be engaged in such areas - M/s.R.K. Ventures v. District Superintendent of Police, Ernakulam (Rural), I.L.R. 2024 (4) Ker. 295. [Neutral citation - 2024:KER: 69959](#)

Procedure for settlement of Disputes—When there is an alternate efficacious remedy available, granting police protection without exhausting the same would be inappropriate - M/s.R.K. Ventures v. District Superintendent of Police, Ernakulam (Rural), I.L.R. 2024 (4) Ker. 295. [Neutral citation - 2024:KER: 69959](#)

Time limit for issuing notice is clearly a matter of procedure and does not affect substantive rights—If an amended provision is introduced during the time allotted for issuing a notice under the original provision, the deadline for issuing the notice will be as specified in the amended provision - Ibrahim M A v. Commissioner of Income Tax-II, I.L.R. 2024 (4) Ker. 320. [Neutral citation - 2024:KER: 64462](#)

In the absence of contraband or the article containing the contraband or at least a medical test to justify the allegation of consumption of a narcotic drug, it is impossible for prosecution to prove nature of the contraband—If a person is permitted to be prosecuted on the mere basis of smell from his breath, it can lead to anomalous situations where the Investigating Officers would be able to rope in any person as an accused in an NDPS offence— Ibnu Shijil v. State of Kerala, I.L.R. 2024 (4) Ker.303. [Neutral citation - 2024:KER: 60608](#)

Characteristics of Will and the manner in which Will is to be proved, elucidated— Where one attesting witness examined to prove the Will under Section 68 of Evidence Act fails to prove the due execution of the Will, then the other available witness must be called to supplement former's evidence to make it complete in all respects—Both the attesting witnesses need not depose about attestation by the other witness - Mannarakkal Madhavi (Died) v. Nanganadath Pulparambil Devadasan (Died), I.L.R. 2024 (4) Ker. 342. [Neutral citation - 2024:KER: 60202](#)

When evidence of attesting witness is indefinite, doubtful or conflicting on material points, the Court can consider all the circumstances and accept the Will, if proper

attestation is proved by other evidence—Section 71 of Evidence Act cannot be read so as to absolve a party of his obligation under Section 68 of the Evidence Act read with Section 63 of Indian Succession Act, to enable him to give a go bye to the mandate of law relating to proof of execution of Will— Mannarakkal Madhavi (Died) v. Nanganadath Pulparambil Devadasan (Died), I.L.R. 2024 (4) Ker. 342. [Neutral citation - 2024:KER: 60202](#)
