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Latest decisions – 25/12/2024

Executing Court does not cease to have jurisdiction even though there was an alteration of jurisdiction subsequent to the institution of the suit - Makkar T.K. v. Meeravu Haji, I.L.R. 2024 (4) Ker. 1165. Neutral citation – 2024:KER: 81767

Method of service through postal channels, as envisaged in Order V Rule 25, cannot be said to have been excluded/foreclosed altogether due to Hague Service Convention, as the Convention itself contemplates such service through postal channels—Service to defendants residing abroad through postal channels, is also permissible, provided the destination State does not object to the same—Mode of service to defendants residing abroad should essentially be the one contemplated in the Convention—Court directed Registry to issue appropriate guidelines/modified OM on the basis of the law declared—Court called upon Central Government to establish a portal or a dashboard to facilitate the process with respect to the grievances of litigants nationwide who encounter challenges when required to in initiate legal processes aboard—Charuvila Philippose Sundaran Pillai (Died) v. Sivadasan P.N., I.L.R. 2024 (4) Ker. 1085 (F.B.). Neutral citation – 2024:KER: 84933

Requirements stipulated under Rule 66 of KCS Rules, 1969 is to be mandatorily complied with while preparing a report under Section 66 of KCS Act, 1969— Extension of the term of inspection can only be granted by the Registrar on the submission of an interim report by the enquiry officer—There is no empowering statutory provision for the Registrar to retrospectively ratify the delayed submission of a report under Rule 66—Viswanathan Nair N. v. Unit Inspector, I.L.R. 2024 (4) Ker. 1142. Neutral citation – 2024:KER: 89530 When the service of the contractual employee stands subsequently regularised pursuant to judgment of High Court, the salary paid to such employee cannot be considered as loss to the society— 'Person' in Section 68 of KCS Act, 1969 will not include 'committee' - Viswanathan Nair N. v. Unit Inspector, I.L.R. 2024 (4) Ker. 1142. Neutral citation – 2024:KER: 89530

Assessing Authority has a discretion in the matter of whether or not a penalty is to be imposed under Section 271B of I.T. Act, 1961 —No such discretion is available in deciding the quantum of penalty, once it is found that penalty has to be imposed— Delay in furnishing audit reports by assessees within the stipulated time before the Income Tax Authorities on account of the fact that there had been a corresponding delay in receiving audit reports from statutory auditors appointed under Kerala Co-operative Societies Act and Rules, is a reasonable cause under Section 273B of I.T. Act, 1961 for which no penalty could be levied—Assessing authority, First Appellate Authority and Tribunal erred in not taking note of the Circular which was binding upon the Department— Chavakkad Service Co-operative Bank v. Income Tax Officer, I.L.R. 2024 (4) Ker. 1124. Neutral citation – 2024:KER: 87634

In a grievance complaint, the Lok Ayukta can investigate the issue and recommend remedial measures to the competent authority, but it has no power to enforce its recommendations or findings, nor does it have the authority to execute its orders -Branch Manager, Kerala State Financial Enterprises Ltd. v. Nazeer E.M., I.L.R. 2024 (4) Ker. 1113. Neutral citation – 2024:KER: 76521

"Doctrine of Factum Valet" explained—If the competence or the authority of the person doing the act is essential to the validity of the transaction, the legal character of the act is beyond the province of the doctrine of 'factum valet' —Doctrine of "Factum Valet" cannot be extended to find a person liable, when he acted in the interest of the institution— Georgekutty C.X. v. Chairman and Managing Director, Kerala State Electricity Board Limited I.L.R. 2024 (4) Ker. 1156. <u>Neutral citation –</u> 2024:KER: 87414

Constitution of Waqf Tribunal does not take away the powers of a Civil Court to execute the decree—Makkar T.K. v. Meeravu Haji, I.L.R. 2024 (4) Ker. 1165. <u>Neutral</u> citation – 2024:KER: 81767

No bar for suits instituted prior to the establishment of Wakf Tribunal - Makkar T.K. v. Meeravu Haji, I.L.R. 2024 (4) Ker. 1165. <u>Neutral citation – 2024:KER: 81767</u>

TEAM ILR WISHES ALL IT'S PATRONS A PEACEFUL AND PROSPEROUS NEW YEAR
