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- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Section 51 (b)— Immovable property sold in court auction without effecting attachment—Omission to attach the property brought to sale cannot be taken as a ground of objection by the Judgment-debtor against court auction sale.*
 Ummer v. Pariparamban Abdul Azeez I.L.R. 2015 (1) Kerala . . 1015
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Sections 96 and 100 and Order XX, Rule 6 A and Order XLI, Rule 1—The registry cannot refuse to number the Regular First Appeal or Regular Second Appeal for the reason that the memorandum of appeal is not accompanied by a copy of the impugned decree—The decree need be produced by the appellant only if the appeal is not dismissed under Order XLI, Rule 11 C.P.C. or for being time barred or for any other reason.*
 Reetha v. Paul I.L.R. 2015 (1) Kerala . . 148
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Section 357 A—Victim Compensation Scheme, 2014—Even though delay or negligence on the part of the investigating agency is not a ground to award compensation, compensation can be granted to the petitioners, whose son was murdered, taking into consideration the ordeal they had undergone into taking up the matter before the High Court on several occasions.*
 State of Kerala v. Gopalan, M. I.L.R. 2015 (1) Kerala . . 425
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)**—*Sections 95, 96 and 482—An order passed or action taken under Section 95 Cr. P.C. cannot be questioned before any court, otherwise than by an application under Section 96 Cr. P.C., subject to the constitutional powers of the superior courts—An order passed under Section 95 Cr. P.C. cannot be challenged, invoking the jurisdiction under Section 482 Cr. P. C.*
 Abdul Ali, K. K. v. State of Kerala (F.B.) I.L.R. 2015 (1) Kerala . . 706
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)**—*Section 110— If the habitual offender, proceeded against under Section 110 Cr. P.C. is not amenable to the process, the proceedings fail and therefore it cannot be utilized to shield the offender from being proceeded against under the provisions of KAAPA.*
 Sameena Beevi v. State of Kerala I.L.R. 2015 (1) Kerala .. 42
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)**—*Section 125 (3)— Maximum imprisonment for default in payment of maintenance shall be one month for each default.*
 Gopika, M. v. Stalin, A.T. I.L.R. 2015 (1) Kerala . . 74
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)**—*Section 125 (4)— Evidence to the effect that the wife travelled together with another man in a car or that the wife was meeting frequently with another man, alone, is not sufficient to come to a conclusion that the wife is living in adultery, as contemplated under Section 125 (4) Cr. P.C., so as to deny maintenance to her.*

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 154—*Information to Police—Where allegation of corruption is made against public servants, the Director, Vigilance and Anti Corruption Bureau, is justified in ordering quick verification/preliminary enquiry into the allegation before registering the crime—The enquiry is only for the purpose of ascertaining whether a non-cognizable offence has been made out and not for verifying the correctness of the allegations.*

Sunilkumar, V. S. v. State of Kerala I.L.R. 2015 (1) Kerala . . 88

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 173 (2) and (8)—*In a case where an additional final report of further investigation, contrary to the final report filed under Section 173 (2), is filed, the trial court will have to decide whether the additional report is acceptable—Merely because the additional report of further investigation is in favour of the accused, the prosecution cannot be quashed or allowed to be withdrawn—The acceptability of the additional report can be decided by the trial court when the case goes to trial.*

Jiji Thomson v. State of Kerala I.L.R. 2015 (1) Kerala .. 555

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Sections 216, 217, 222, 464 and 465—*Accused charge-sheeted for offences punishable under Section 378 Indian Penal Code and Section 12 (10) read with Section 20 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001—Accused found not guilty of the above charge but found guilty under Rule 48 K read with 58 (1) of the Kerala Minor Mineral Concession Rule—Accused who is charge-sheeted for a major offence under a particular Act cannot be convicted for another minor offence under a different Act for which he was not charged with, without altering the charge and reading and explaining the altered charge of minor offence to him, where the particulars of the fact constituting the minor offence are different from that of the major offence.*

Reji v. State of Kerala I.L.R. 2015 (1) Kerala . . 631

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Sections 292 and 293—*The documents prepared by persons enumerated under Section 293 (4) (a) to (f) can be admitted in evidence without examining them and no specific notification is required in this regard— The documents falling under Section 292 can be admitted in evidence without examining the author only on the basis of the notification issued by the Government specifying such persons mentioned under Section 292— Even if the expert opinion is not available, if naked eye examination of the counterfeit note itself indicates that it is a fake note, then the Court can rely on such facts for the purpose of coming to the conclusion that it is a fake note.*

Abdul Rahiman v. State of Kerala I.L.R. 2015 (1) Kerala . . 641

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 319—*During the course of trial on the basis of evidence, if the Court is satisfied that any person other than the person arrayed as an accused, is involved in commission of the crime, then the Court can irnplead the said person as an accused—Merely because the investigating officer has filed a report to delete the name of the person as an accused, the same is not a ground for curtailing the powers of the Court under Section 319 Cr. P. C.— The powers under Section 319 must be used sparingly and only if the evidence is satisfactory.*

Jose Paul v. State of Kerala I.L.R. 2015 (1) Kerala . . 404

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 321—*The Public Prosecutor*

making the application for withdrawal of prosecution need not always be the person who had the case bundle with him or the person who had represented the State before the Court till the application for withdrawal was made—The consideration must be whether the person who made the application as Public Prosecutor was in fact, in charge of the case—The Legal Advisor of the Vigilance and Anti-Corruption Bureau, having general supervision and control over the cases of the Vigilance, will have to be considered as the Public Prosecutor in charge of the case as contemplated under Section 321.

Jiji Thomson v. State of Kerala I.L.R. 2015 (1) Kerala . . 555

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 321—*When the State takes decision to withdraw from prosecution and an application to that effect is submitted by the Public prosecutor, the State or the Public Prosecutor must convince the court that such withdrawal will secure some public interest in the form of social good or public tranquility or social harmony or public order.*

Jiji Thomson v. State of Kerala I.L.R. 2015 (1) Kerala . . 555

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Sections 340 and 341—*A criminal appeal can be brought before the Sessions Court under Section 341 Cr. P. C. only against an order passed by the Criminal Court under Section 340 Cr. P.C.—When orders are passed by the Civil Court on an application filed under Section 340 Cr. P.C., the proper remedy is to file an appeal against the said order before the Appellate Court on the civil side.*

Rocky, V. A. v. Pavunni I.L.R. 2015 (1) Kerala . . 656

Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Sections 468, 469 and 470—*The complaint, which was filed within time, quashed by the High Court with liberty to file afresh complaint—The complaint which is thereafter filed can be proceeded by the trial court after excluding the time spent for bona fide prosecution of the case—Electricity Act, 2003 (Central Act 36 of 2003)—Sections 135, 138, 139 and 151.*

Senthil Kumar v. State of Kerala I.L.R. 2015 (1) Kerala . . 667

Companies Act, 1956 (Central Act 1 of 1956)—Section 295—*The mere fact that the accused, in his capacity as Managing Director of the Company, had withdrawn money from the company's account, without the permission of the Central Government, will not make him liable for criminal culpability under Section 295 (J)—In order to attract an offence under Section 295 (4), there must be a specific allegation that the Board of Directors of the Company had passed a resolution to grant or sanction the loan to the beneficiary concerned, without the due permission of the Central Government—Companies Act, 1956 (Central Act 1 of 1956)—Section 292.*

Assistant Registrar of Companies v. Thomas P. Koshy I.L.R. 2015 (1) Kerala . . 933

Conservation of Paddy Land and Wetland Act, 2008 (Kerala Act 28 of 2008)—Section 5—*Once the draft data bank is prepared, it has to be considered by all statutory authorities till it is finalised or modified—Landowners can approach the Local Level Monitoring Committee for modification of the draft data bank.*

Adani Infrastructure & Developers (P) Ltd. v. State of Kerala I.L.R. 2015 (1) Kerala . . 699

Conservation of Paddy and Wetland Act, 2008 (Kerala Act 28 of 2008)—Section 5—*If a property is included in the Data Bank or the Draft Data Bank prepared under the Act as paddy land or wetland and the classification of land is noted as 'nilam' in revenue records, the provisions of the Act would apply—If the property is not included in the Data Bank, it is still governed*

by the provisions of the Kerala Land Utilisation Order, 1967— The land owners have to approach the competent authority constituted under the Kerala Land Utilisation Order, 1967 or Kerala Conservation of Paddy and Wetland Act, 2008, as the case may be, for conservation of the land—Kerala Land Utilisation Order, 1967—Clauses 4, 5, 6 and 7.

Revenue Divisional Officer, Fort Kochi v. Jalaja Dileep (S.C.) I.L.R. 2015 (1) Kerala . . . 851

Constitution of India—Articles 13 (2), 21 and 30 (1)—*The notification issued by the Government bringing in a minority education institutions under the purview of the Act, cannot be treated as an abridgement within the meaning of Article 13 (2), so as to violate the fundamental right guaranteed under Article 30(1)—Under the protective cover of Article 30(1) of the Constitution, a minority educational institution cannot be heard to say that they have unfettered right even to violate the fundamental right guaranteed under Article 21 of the Constitution—Employees’ State Insurance Act, 1948 (Central Act 34 of 1948)—Section 1(5).*

Don Bosco Higher Secondary School v. Employees’ State Insurance Corporation
I.L.R. 2015 (1) Kerala . . . 369

Constitution of India—Article 14—*Public Sector undertaking should be a model employer—Denial of right to regularization in service is unfair labour practice and is in violation of Articles 14 and 16.*

Leela Amma v. Kerala State Handloom Development Corporation Ltd. I.L.R. 2015 (1) Kerala . . . 216

Constitution of India—Article 15 (4)—*Reservation—Prescription of lower pass mark, to pass SET examination, for members of Other Backward Communities is in consonance with right of the State under Article 15 (4) of the Constitution to make special provision for the advancement of socially and educationally backward classes of the society.*

Nair Service Society v. State of Kerala I.L.R. 2015 (1) Kerala . . . 876

Constitution of India—Article 30 (1)—*When a legislation has been brought by the State to ensure livelihood within the meaning of ‘right to life’ and for ensuring health and better welfare to the employees for ensuring protection to the fundamental rights guaranteed under Article 21 of the Constitution, it cannot be said that such a law will abridge the fundamental rights of the minority guaranteed under Article 30(1) of the Constitution—Employees State Insurance Act, 1948 (Central Act 34 of 1948)—Section 1 (5).*

Don Bosco Higher Secondary School v. Employees’ State Insurance Corporation
I.L.R. 2015 (1) Kerala . . . 369

Constitution of India—Article 226—*A writ petition under Article 226 is not maintainable against a private body which is not invested with any public duty or function or which cannot be treated to be performing public duty for which public law remedy is not available—The duties cast on the public body, either statutory or otherwise, and further exercise of any jurisdiction in contractual matters cannot be termed as discharge of public functions, where the relations of employer-employee are governed by contract of employment entered between the two.*

Bindu K.B. v. State of Kerala I.L.R. 2015 (1) Kerala . . . 507

Constitution of India—Article 226—*Class litigation by an association of employees or trade unions can be entertained only when the issues raised are of general nature—An association cannot file writ petition seeking regularization of some of the part-time employees.*

Financial Service Executives Welfare Association v. L.I.C. of India I.L.R. 2015 (1) Kerala . . . 225

- Constitution of India**—Article 226—Construction of multi-storied building effected in violation of CRZ Notification—Contention that High Court cannot entertain writ petition involving environmental violation and the matter has to be referred to the Green Tribunal is not sustainable since the High Court can entertain writ petition involving environmental violation considering the larger public interest and need not refer the matter to the Green Tribunal—The records would show that the buildings constructed by DLF are In violation of the CRZ Notification and therefore the High Court directed to stop all further constructions and also to demolish the buildings constructed in violation of the CRZ Notification.
Antony, A. V. v. Corporation of Cochin I.L.R. 2015 (1) Kerala . . . 476
- Constitution of India**—Article 226—Habeas Corpus—When a rule nisi is issued, it discloses the fact that the High Court is satisfied that a prima facie case for granting the relief sought for in the application is made out and the process to the respondent shall be at the expense of the State—If the Court is not satisfied at the stage of admission to issue a rule nisi, process will go at the expense of the petitioner—If a rule nisi is not issued, application for issuance of a writ in the nature of Habeas Corpus will not be treated as admitted—Rule of the High Court of Kerala, 1971—Rule 161.
Ninan George v. State of Kerala I.L.R. 2015 (1) Kerala . . . 289
- Constitution of India**—Article 226—Maintainability of Writ Petition against Co-operative Society—Irrespective of whether a Co-operative Society is covered by the definition of ‘State’ in Article 12, Writ Petition will be maintainable if there is infraction of statutory provisions by the Society— Where there is no breach of statutory duty or public duty by the Society, Writ Petition is not maintainable against it.
Association of Milma Officers v. State of Kerala (L.B.) I.L.R. 2015 (1) Kerala . . . 861
- Constitution of India**—Article 226—Mere negligence on the part of the investigation officer or mere delay on the part of the investigation officer in completing the investigation cannot give rise to a claim for compensation—The award of compensation by invoking public law remedy arises only in cases where the adjudication of disputed facts is not required.
State of Kerala v. Gopalan, M. I.L.R. 2015 (1) Kerala . . . 425
- Constitution of India**—Article 226—Public Interest Litigation—Only persons acting with utmost good faith will have the local standi to approach the High Court with public interest litigations—The petitioner should not only come to the court with clean hands, but also with a clean heart, clean mind and clean objective.
Antony Jayan v. State of Kerala I.L.R. 2015 (1) Kerala . . . 899
- Constitution of India**—Article 226—Res judicata—The general principles of res judicata and constructive res judicata applies to writ proceedings as well—The plea of res judicata being a question of law can be raised even at the appellate stage—Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Section 11.
State of Kerala v. Gopalan, M. I.L.R. 2015 (1) Kerala . . . 425
- Constitution of India**—Article 226—The authorities have to settle the terminal benefits of the retired employees within a reasonable time of 2 months— The authorities have to initiate necessary steps to collect all the service documents of the employee for the purpose of computing the terminal benefits, before the employee retires from service—The employee is entitled to simple interest @ 10% per annum for the delayed payment, after excluding the reasonable time of 2 months for settling the terminal benefits.

Constitution of India—Article 226—*Whether an employee had abandoned employment or whether he was not permitted to work are all questions of fact, which is to be adjudicated by the Labour Court—The High Court will not examine such factual questions under Article 226.*

Fertilizers and Chemicals Travancore Ltd. v. James Philip I.L.R. 2015 (1) Kerala . . 832

Constitution of India—Article 226—*When function entrusted to a private body is regulated by a statute and the body is obliged to perform the function, the said function is in the nature and character of a public function which can be made subject-matter of an issue of a writ proceedings— The selection of the District Team of the Roller Skating Association to participate in the State Championship conducted by the Kerala Roller Skating Association is regulated by statutory provisions and can very well be made subject-matter of judicial review under Article 226 and the writ petition in respect of the said matter is maintainable—Sports Act, 2000 (Kerala Act 2 of 2001)—Section 46.*

Kerala Roller Skating Association v. Ernakulam District Roller Skating Association
I.L.R. 2015 (1) Kerala . . 777

Contempt of Courts Act, 1971 (Central Act 70 of 1971)—Section 12—*Use of vitriolic, slanderous or abusive language to criticise judgment cannot be part of the Right to freedom of speech and expression—Right to freedom of speech and expression does not extend to inciting the public directly or insidiously to disobey court orders—Constitution of India—Article 19.*

Jayarajan, M V. v. High Court of Kerala (S.C.) I.L.R. 2015 (1) Kerala . . 417

Contempt of Courts Act, 1971 (Central Act 70 of 1971)—Section 19—*No appeal will lie to the Division Bench against the order of the Single Bench dismissing the contempt application— The dismissal of contempt application by the High Court does not amount to “exercise of its jurisdiction for contempt”, within the meaning of Section 19(1)— Kerala High Court Act, 1958 (Kerala Act 5 of 1959)—Section 5.*

Project Manager, Central Sliver Plant v. K. O. Poulouse I.L.R. 2015 (1) Kerala . . 98

Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Sections 16 A and 19A—*Any election notified after amendment of the Act should be in accordance with the amended Act.*

Kalladikode Service Co-operative Bank Ltd. v. State of Kerala I.L.R. 2015 (1) Kerala . . 543

Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 40 (1) (a)—*The benefit of remission of stamp duty under Section 40 (1) (a) is available only in respect of instruments executed by or on behalf of a Co-operative Society or by an officer or member thereof—The instrument so executed should be relating to the business of the Society—In cases where the Society purchased properties, the executant of the instrument not being the society but the vendor of the property, the requirement of the execution of the instrument by or on behalf of the Society as provided in Section 40(1) (a) of the Stamp Act and Clause (1) (a) of S.R.O. No. 75/60 is not satisfied—Madras Co-operative Societies Act, 1932 (Madras Act 6 of 1932)—Section 30(2)—Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act .10 of 1952)—Section 35.*

Sub Registrar, Palakkad v. Kerala State Co-operative Consumers Federation Ltd. (F. B.)
I.L.R. 2015 (1) Kerala . . 161

Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 40 (1) (a)—*The provisions of S.R.O. No. 75/60, understood in the context of Section 40 of the Kerala Co-operative Societies Act, 1969 makes it clear that the benefit of remission of Stamp duty will not be*

available if a member of the Society is executing a document in his own capacity or in the capacity of a guardian of a minor—To avail the benefit of remission the member should be acting on behalf of the society and should be executing an instrument in that capacity.

Sub Registrar, Palakkad v. Kerala State Co-operative Consumers Federation Ltd. (F.B.)
I.L.R. 2015 (1) Kerala . . . 161

Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—*Sections 40 (1) (a) and 110 (2) (i)—In view of the language used in Section 110(2)(i), the provisions of S.R.O. No. 75/60 issued under the Madras Co-operative Societies Act, 1932 and Travancore-Cochin Co-operative Societies Act, 1951, will have to be generally followed to the extent permissible under the Kerala Co-operative Societies Act, 1969.*

Sub Registrar, Palakkad v. Kerala State Co-operative Consumers Federation Ltd. (F.B.)
I.L.R. 2015 (1) Kerala . . . 161

Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—*Section 68 (1) and (2)—No opportunity for hearing is contemplated before passing an order for enquiry under Section 68(1)—The opportunity of hearing is available under Section 68 (2).*

Santhosh, V. v. Assistant Registrar (G) of Co-operative Societies Ltd. LL.R. 2015 (1) Kerala . . . 187

Co-operative Societies Rules, 1969 (Kerala)—*Rule 44—Even if the order of disqualification under Rule 44 refer to a complaint filed by a stranger, in view of the suo motu power vested with the Registrar to initiate proceedings for disqualification, the complaint referred in the order need be considered only as one alerting the Registrar regarding the significance of the disqualification.*

Ramesan, V. v. Joint Registrar of Co-operative Societies I.L.R. 2015 (1) Kerala . . . 615

Co-operative Societies Rules, 1969 (Kerala)—*Rule 44 (1) (f), Proviso—Employee of Co-operative Bank successfully contesting in the election to the Managing Committee of a Primary Society and on being nominated as delegate from the Primary Society, contesting in the election to the Director Board of the Apex Society and being elected as its President— Registrar granting exemption to the employee from Rule 44 (1) (f) for contesting in the election to the Director Board of the Apex Society— Disqualification under Rule 44 (1) (f) upheld since the exemption from Rule 44 (1) (f), which was with respect to the election to the Apex Society, would not inure to the benefit of the employee in so far as his election to the Managing Committee of the Primary Society is concerned.*

Ramesan, V. v. Joint Registrar of Co-operative Societies I.L.R. 2015 (1) Kerala . . . 615

Criminal Prosecution—*Just because some prosecution witnesses had died while the proceedings were pending, the court cannot grant permission to withdraw from prosecution—It is for the prosecution to take necessary alternative steps for proving the prosecution case.*

Jiji Thomson v. State of Kerala I.L.R. 2015 (1) Kerala . . . 555

Damages—*Vicarious liability of State—Irrespective of whether there is negligence or not on the part of the Doctor who conducted the surgery, the State has a duty to recompense the victim who underwent surgery on the basis of the promise held out by the State that it is a foolproof method of sterilisation—There is a constitutional responsibility on part of the State to support such victims.*

State of Kerala v. Santha I.L.R. 2015 (1) Kerala . . . 966

Divorce Act, 1869 (Central Act 4 of 1869)—*Section 10 (vii)— Wilful non-consummation of marriage and impotency are different and distinct and they have to be considered on different*

perspective—Non-consummation is one of the grounds for dissolution of marriage, whereas impotency is one of the grounds for nullity of marriage—The refusal to have sexual intercourse due to any disease or physical inability cannot be said to be wilful, falling under Section 10 (vii) of the Divorce Act.

Shaju, P. L. v. Anitha I.L.R. 2015 (1) Kerala . . . 175

Divorce Act, 1869 (Central Act 4 of 1869)—Sections 10 (vii) and 10 (x)—*After the first intercourse, in pursuance of marriage, the ground of non-consummation of marriage owing to wilful refusal of the spouse, as stipulated under Section 10 (vii), is not available to the other spouse to seek dissolution of marriage—Even if the spouse has been wilfully refusing to have sexual intercourse after the first intercourse, the ground under Section 10 (vii) cannot be made available to the other spouse, even though that may amount to cruelty which would come under Section 10 (x) of the Act—Consummation would be complete by erection and ejaculation, whether ejaculation is imminent or not, after erection.*

Shaju, P.L. v. Anitha I.L.R. 2015 (1) Kerala . . . 175

Divorce Act, 1869 (Central Act 4 of 1869)—Sections 10 (vii) and 10(x)—*Irretrievable break down of marriage cannot be a ground for dissolution of marriage and unless the same is made a ground for divorce by way of amendment in the Divorce Act, the Court cannot grant divorce on that ground alone.*

Shaju, P. L. v. Anitha I.L.R. 2015 (1) Kerala . . . 175

Education Rules, 1959 (Kerala)—Chapter III, Rule I—*A congregation is an organization whether it forms a spiritual family or not—Such an organization can assume status of a spiritual family, but, it cannot be said that it is not an organization, when it is a spiritual family—Congregation can be a corporate educational agency within the meaning of Rule 1 of Chapter III of the Kerala Education Rules.*

Don Bosco Higher Secondary School v. Employees' State Insurance Corporation
I.L.R. 2015 (1) Kerala . . . 369

Education Rules, 1959 (Kerala)—Chapter III, Rules 7 and 9—*An incumbent Manager cannot be made liable for the misconduct of his predecessor on the premise that the Government will be remediless to recover the loss caused to the Government—An offence or a misconduct does not run with the office, but it does with the person who fills that office.*

Vijeesh, C.V. v. State of Kerala I.L.R. 2015 (1) Kerala . . . 490

Emigration Act, 1983 (Central Act 31 of 1983)—Section 22 (3)—*Emigration clearance—An application for emigration clearance should be accompanied by a true copy of employment agreement—This condition cannot be waived.*

Union of India v. Roopesh I.L.R. 2015 (1) Kerala . . . 263

Employees Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act 19 of 1952)—Section 17 B—*The raw material procured by the lessee after the transfer of establishment by way of lease arrangement and processed to finish goods would not fall under the term 'assets' employed in Section 17 B—The assets obtained by the transferee by such transfer alone would be liable to be proceeded under Section 17 B.*

Employees Provident Fund Organisation v. Manoj, K. I.L.R. 2015 (1) Kerala . . . 293

Employees State Insurance Act, 1948 (Central Act 34 of 1948)—Section 2 (9)—*A nun employed in an establishment being run by a congregation is also an employee employed for wages within the meaning of Section 2 (9) of the Employees State Insurance Act—Employees State Insurance Act, 1948 (Central Act 34 of 1948)—Section 2 (22).*

Don Bosco Higher Secondary School v. Employees' State Insurance Corporation

Employees State Insurance Act, 1948 (Central Act 34 of 1948)—Section 2 (9)— *In interpreting the definition of the term “employee” in Section 2 (9) of the Employees State Insurance Act, the aid of Section 1 (5) of the Act has to be taken—Educational institutions also can be establishments wherein an employee within the meaning of Section 2 (9) of the Employees State Insurance Act can work—Section 2 (9) of the Employees State Insurance Act takes in any employee without any classification—The Government is free to bring in any establishment of their choice within the sweep of Section 1(5) of the Employees State Insurance Act and there cannot be any restrictions to such power of the Government—When there cannot be any restriction to bring an educational institution as an establishment to which the provisions of the Employees State Insurance Act applies, the employees who are qualified therein to have coverage are, no doubt, employees within the meaning of Section 2 (9) of the Employees State Insurance Act—Employees State Insurance Act, 1948 (Central Act 34 of 1948)—Section 1(5).*

Don Bosco Higher Secondary School v. Employees’ State Insurance Corporation
I.L.R. 2015 (1) Kerala . . 369

Family Courts Act, 1984 (Central Act 66 of 1984)—Section 7(1) (e)—*Suit filed by the plaintiff before the Munsiff Court seeking for a declaration that the plaintiff is the son born to the 1st defendant and for consequential relief—The issue of legitimacy of the birth of the plaintiff, owing to the relationship between defendants 1 and 2 can be adjudicated only by the Family Court, under Section 7 (1)(e) of the Family Courts Act.*

Devadas v. Gopalakrishnan, P. D. I.L.R. 2015 (1) Kerala . . 208

Family Courts Act, 1984 (Central Act 66 of 1984)—Section 7 (1) (e)—*The acceptability or otherwise of the DNA report has to be considered by the Family Court only after examining the author of the report.*

Devadas v. Gopalakrishnan, P. D. I.L.R. 2015 (1) Kerala . . 208

Finance Act, 1994 as amended by Finance Act, 2011 (Central Act 32 of 1994)—Section 65 (105) (zzzzv)—*After the Constitution (Forty Sixth Amendment) Act, the activity relating to the supply of food and other consumables in restaurants is deemed as a sale of goods—Tax on the said activity can be imposed only by the State in view of Entry 54 in List II of the Seventh Schedule—Constitution of India—Article 366 (29 A), Entry 97, List I and Entries 54 and 62 of List II of the VII Schedule.*

Union of India v. Kerala Bar Hotels Association I.L.R. 2015 (1) Kerala . . 267

Finance Act, 1994 as amended by Finance Act, 2011 (Central Act 32 of 1994)—Section 65 (105) (zzzzw)—*As the State Legislature has enacted the Kerala Tax on Luxuries Act as per the terms of Entry 62 of List II and is levying tax, with respect to the same matter covered by sub clause (zzzzw) of Clause 105 of Section 65 of the Finance Act, 1994 as amended by Finance Act, 2011, it is not open to the Parliament to tax the very same subject-matter under Entry 97 of List I—Tax on Luxuries Act, 1976 (Kerala Act 32 of 1976)—Sections 2(f) and 4.*

Union of India v. Kerala Bar Hotels Association I.L.R. 2015 (1) Kerala . . 267

Foreigners Act, 1946 (Central Act 31 of 1946)—Section 14 (b)—*Penalty for contravention of provisions of the Act—Foreign National visiting India on tourist visa can attend or address a meeting—There is no condition in the Visa interdicting him from doing so.*

Jonathan Baud v. State of Kerala I.L.R. 2015 (1) Kerala . . 410

Forest Act, 1961 (Kerala Act 4 of 1962)—Sections 27(l)(e)(iii) and 27(l)(e)(iv)—*Logically, the*

offences contemplated under Section 27(l)(e)(iii) can be done by a person only after a completed trespass—The term “trespass” used in Section 27 (1) (e) (iv) can only be for any other act or offence than those mentioned in Section 27 (1) (e) (iii).

Mundamdra Kareem v. Deputy Ranger I.L.R. 2015 (1) Kerala .. 211

Guardian and Wards Act, 1890 (Central Act 8 of 1890)—Section 29—*The absence of the term ‘partition’ among the transactions enumerated in Section 29, thereby making previous permission of the court not a statutory requirement, does not denude the District Judge of the authority to look into the affairs of a minor, when such matter comes before that officer or court—When the natural guardian of a child brings a transaction which has already been entered into, for the perusal and ratification of the court, what is required is for that court to examine whether there has been a bona fide exercise of parental care, caution and due diligence, as expected from a natural or legal guardian.*

Lissy v. Annie I.L.R. 2015 (1) Kerala . . 745

Industrial Disputes Act, 1947 (Central Act 14 of 1947)—Section 17 B—*If the Workmen does not have the right to continue in employment either on account of attaining the age of superannuation or on account of closure of establishment, such workman is not entitled to the benefit of Section 17 B and he cannot claim wages, pending disposal of the writ petition filed by Management challenging the order of reinstatement.*

M/s N. Mahalingam and Company v. Santhosh Kumar, T. (F. B.) I.L.R. 2015 (1) Kerala . . 255

Kerala University First Statutes, 1976—Statue 5 (1)—*Qualifying service—Prior service put in by aided college teacher in Central Government service will be counted as qualifying service for the purpose of pension— Service Rules, 1959 {Kerala)—Part III, Rule 11, Note 2.*

State of Kerala v. Haridasan, P. (F.B.) I.L.R. 2015 (1) Kerala . . 724

Lakshadweep Panchayats Business Rules, 1997—Rule 15—*If a meeting is convened in violation of the prescribed procedure, decisions taken in the said meeting will be defective.*

Umaiban, U. P. v. Director of Panchayats I.L.R. 2015 (1) Kerala . . 322

Land Acquisition Act, 1894 (Central Act 1 of 1894)—Section 4 (1)—*Land proposed to be acquired by the Travancore Devaswom Board for erecting a few structures in the temple premises, in accordance with the thanthic principles, so to maintain the sanctity and purity of the temple— The above need of the Devaswom is certainly a public purpose and proceedings can be initiated under the provisions of the Land Acquisition Act.*

Radhakrishnan, P. v. State of Kerala I.L.R. 2015 (1) Kerala . . 304

Land Acquisition Act, 1894 (Central Act 1 of 1894)—Section 28 A—*Award passed by reference court under Section 28 A (3) can be relied on by another person for redetermination of the amount of compensation under Section 28 A—It is not necessary that the award relied on by applicant under Section 28 A should be an award passed by reference court on a reference under Section 18.*

Palakkel Chirukandan v. Special Tahsildar (LA.) I.L.R. 2015 (1) Kerala . . 469

Land Acquisition Act, 1963 (Central Act 36 of 1963)—Section 28A—*Claim under Section 28 A can be made after the termination of proceedings under Section 30 of the Act.*

Vadakkeveetil Ahammed Rasheed v. District Collector IJLR. 2015 (1) Kerala . . 538

Land Acquisition Act, 1894 (Central Act 1 of 1894)—Section 3J—*Mere delay in pocketing the compensation amount by the claimants would not entitle them to be placed in a situation*

under Section 31 (2), as if they had not consented to receive the compensation amount—Section 31 (2) will be applicable to cases where the claimant impliedly refuses to receive the compensation amount—Revenue deposit does not tantamount to court deposit—Land Acquisition Rules, 1990 (Kerala)—Rule 13 (2).

Rasheeda v. State of Kerala I.L.R. 2015 (1) Kerala . . 1027

Land Reforms Act, 1963 (Kerala Act 1 of 1964)—Sections 2 (43), 85 (6) (a) and 103—*The assignee of the property from the declarant, on his own, can defend the proceedings for determination of the excess land—The assignee of a property, who is liable to be proceeded under Section 85 (7) of the Kerala Land Reforms Act is certainly a person aggrieved by the final order passed by the Taluk Land Board.*

MMJ Plantations v. State of Kerala I.L.R. 2015 (1) Kerala . . 68

Land Reforms Act, 1963 (Kerala Act 1 of 1964)—Section 2 (44) (c)—*Fuel Area is not ancillary to the cultivation of plantation crops and necessary for its protection and efficient management.*

MMJ Plantations v. State of Kerala I.L.R. 2015 (1) Kerala . . 68

Land Reforms Act, 1963 (Kerala Act 1 of 1964)—Sections 7 E and 85 (8)—*A person who acquired uninterrupted possession of land under an agreement for sale, on payment of consideration from the declarant, is entitled to the benefit of deemed tenancy—The legislature did not contemplate an acquisition of title for a claim of deemed tenancy—An agreement for sale falls within the category of ‘purchase or otherwise’ provided there is a payment of consideration.*

Rajeev, K. T. v. District Collector I.L.R. 2015 (1) Kerala . . 587

Land Reforms Act, 1963 (Kerala Act 1 of 1964)—Sections 83, 84 and 87—*The land which was acquired after 1-1-1970, but sold away before reaching the ceiling limit,, cannot after a long time be included in the account of the assessee, on the ground that by subsequent acquisitions, after selling of the said land, the ceiling limit was crossed—Land which has been acquired and transferred, after reaching the ceiling limit alone can be included in the account of the assessee in a ceiling proceedings under Section 87 of the Act.*

Kalarikal Savithri Amma v. Taluk Land Board, Nilambur I.L.R. 2015 (1) Kerala . . 198

Land Reforms Act, 1963 (Kerala Act 1 of 1964)—Section 87 (1)—*There is no embargo in transferring the whole or part of the exempted land—Revenue authorities cannot refuse to effect transfer of registry of the land— Registering authority cannot Insist on no objection certificate as a pre-requisite for registration of the sale deed covering whole or portion of the exempted land.*

Devasia, R.V. v. Sub Registrar I.L.R. 2015 (1) Kerala .. 1047

Land Tax Act, 1961 (Kerala Act 13 of 1961)—Section 18—*Nature of the land cannot be changed or converted by directing changes in the Basic Tax Register—The Basic Tax Register is maintained only for the purpose of land tax—The rectification envisaged by Section 18 of the Kerala Land Tax Act can only be in respect of arithmetical or clerical error in an order determining the tax due.*

Revenue Divisional Officer, Fort Kochi v. Jalaja Dileep (S.C.) I.L.R. 2015 (1) Kerala . . 851

Land Utilisation Order, 1967 (Kerala)—Clause 6—*Once the property is included in the draft land bank as ‘Nilam’, Revenue Divisional Officer cannot decide whether paddy cultivation is possible in the property or not— It is for the Local Level Monitoring Committee to decide whether the categorisation of property included in the draft land bank should be changed or not—Conservation of Paddy Land and Wetland Act, 2008 (Kerala Act 28 of 2008).*

Legal Services Authorities Act, 1987 (Central Act 39 of 1987)—Section 21— *Award passed by Lok Adalat on the basis of a compromise between landlord and tenant in Rent Control Petition is an order under Section 21 of the Legal Services Authorities Act and not under Section 11 of the Rent Control Act—Such order can be executed by the court which has pecuniary jurisdiction to execute the decree.*

Ummer v. Pariparamban Abdul Azeez I.L.R. 2015 (1) Kerala . . . 1015

Mahatma Gandhi University Act, 1985 (Kerala Act 12 of 1985)—Section 63— *Suspension of teacher—Disciplinary proceedings cannot be initiated without memo of charges—Teacher is not entitled to reinstatement automatically consequent to invalidation of the domestic enquiry.*

Anitha, M. P. (Dr.) v. Manager, S.N.M. Training College I.L.R. 2015 (1) Kerala . . . 297

Minor Mineral Concession Rules, 1967 (Kerala)—Rule 59—*In the absence of any complaint filed by an officer or competent authority under Rule 59, the Court has no power or jurisdiction to take cognizance of the offence under the said Rules.*

Reji v. State of Kerala I.L.R. 2015 (1) Kerala . . . 631

Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Sections 2 (10) and 3—*If the driving licence is not renewed within the period of its validity or within the statutory period of 30 days, the driver shall not be 'duly licensed'—The dictum laid down by Full Bench that validity of driving licence continues to exist, unless it has been shown that the licensee had been disqualified to hold one inspite of expiry of its validity period as well as failure to renew the same within the statutory period, overruled.*

Oriental Insurance Company Ltd. v. Poulouse I.L.R. 2015 (1) Kerala . . . 593

Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Section 149 (2)—*Absence of badge is only a technical breach which is not sufficient to exonerate the Insurer from its liability to pay compensation to third party and in the absence of evidence that the breach was so fundamental in causing the accident, insurer cannot recover the amount from the owner.*

National Insurance Company Ltd. v. Jisha, K.P. (F.B.) I.L.R. 2015 (1) Kerala . . . 349

Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Section 166 (2)—*Territorial jurisdiction of Claims Tribunal—Motor Vehicles Act has given wide territorial jurisdiction to the Tribunal—Claim petition can be filed in any Tribunal within whose jurisdiction the policy issuing office of insurer is situated.*

Sugunan, E. I. v. Riyas, P. M. I.L.R. 2015 (1) Kerala . . . 754

Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Section 167—*The total compensation that can be awarded by the Tribunal is not restricted to the compensation that can be awarded as per the Schedule to the Workmen's Compensation Act.*

United India Insurance Co. Ltd. v. Jayaprakash I.L.R. 2015 (1) Kerala . . . 457

Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Section 173, First Proviso— *When there is a direction in the award of the Tribunal for the insurer to pay the compensation amount awarded to the claimant and to recover the said compensation from the owner, the owner challenging the direction awarded to the insurer to recover the compensation amount, has to make a pre-deposit to maintain the appeal in tune with the First Proviso to Section 173 of the Motor Vehicles Act.*

Pareeth v. Janaiya @ Karuppuswamy (F.B.) I.L.R. 2015 (1) Kerala . . . 23

- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—Section 173—*Appeal filed in the High Court against award of the Motor Accidents Claims Tribunal should be accompanied by certified copy of the impugned award—Free copy issued under Rule 168(2) is not sufficient to file the appeal— Motor Vehicles Rules, 1989—Rules 168 (2) and 396.*
Sunitha v. Ranju (F. B.) I.L.R. 2015 (1) Kerala . . 120
- Motor Vehicles Rules, 1989 (Kerala)**—Rule 387—*The Motor Accident Claims Tribunal will have the discretion to decide whether a claimant, who has put forward a claim of permanent disability, should be examined by a Medical Board or not—For arriving at such decision, the Tribunal will have the discretion to decide whether the claimant should be directed to be present in court in person—Even after the examination of the claimant by a Medical Board, the Tribunal can direct the personal appearance of the claimant, if such a course is necessary for taking a just decision regarding the nature and extent of the permanent disability.*
Akhil @ Akhil Anand, P. v. Managing Director, K.S.R.T.C. (F.B.) I.L.R. 2015 (1) Kerala . . 714
- Motor Vehicles Taxation Act, 1976 (Kerala Act 19 of 1976)**—Section 3—*It cannot be assumed that the stage carriage was not used just because the Fitness Certificate or Permit expired—Expiry of Fitness Certificate or Permit will not automatically enable the owner of the vehicle to seek exemption from tax liability.*
Vipin v. Regional Transport Officer I.L.R. 2015 (1) Kerala . . 465
- Motor Vehicles Taxation Act, 1976 (Kerala Act 19 of 1976)**—Sections 5 and 22—*In cases where vehicle is held in custody of the Police or other authorities for non-payment of tax, a claim for exemption can be made only by filing Form G—There is no need to file Form G in cases where exemption from payment of tax is claimed under Section 22, where the vehicle is held in custody of the Police or other authorities for offences other than for non-payment of tax due under the Act—In either case, assessee can pay the tax demanded and seek refund of the same in terms of Section 6 read with Rule 15 by establishing that the vehicle in question was not used in the state on account of it being in the custody of the Police or other authorities—Motor Vehicles Taxation Rules, 1975—Rules 10 and 15.*
Jomon M. Arackal v. Tahsildar (L. B.) I.L.R. 2015 (1) Kerala . . 331
- National Highways Act, 1956 (Central Act 48 of 1956)**—Sections 3A and 3D—*Challenge to the notification under Section 3A and 3D after the passing of the award by the Arbitrator cannot be entertained—The remedy is to challenge the award passed by the Arbitrator under the provisions of the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996).*
Varghese, A. P. v. Union of India I.L.R. 2015 (1) Kerala . . 112
- National Savings Certificates (VIII Issue) Rules, 1989 (Central)**—Rule 4—*National Savings Certificates of ₹ 10,000 purchased by a Co-operative Bank with the endorsement by the Postmaster to pay the depositor an amount of ₹ 16,010 on date of maturity—The scheme does not provide for a Co-operative Bank to invest in such certificates and therefore endorsement made by the Postmaster is against statutory rules and cannot be enforced—The High Court shall not issue a direction contrary to the statutory provisions—Government Savings Certificates Act, 1959 (Central Act 46 of 1959)—Section 12.*
Poulose, K. J. v. Senior Superintendent of Post Office I.L.R. 2015 (1) Kerala . . 604
- Negotiable Instruments Act, 1881 (Central Act 26 of 1881)**—Section 138—*Intimation from the Postal Department that the registered article has been delivered to the addressee—If the notice has been addressed properly, the presumption is that it has been served on the addressee—General Clauses Act, 1897 (Central Act 10 of 1897)—Section 27.*

- Negotiable Instruments Act, 1881 (Central Act 26 of 1881)**—*Section 138—Merely because amount in excess of ? 20,000 was given in cash by the complainant to the accused, which is interdicted under Sections 269 (SS) and 219 (d) of the Income Tax Act, it cannot be said that the above transaction is an illegal one—At best the said transaction may give a cause of action to the income tax authorities to prosecute the person who violated the provisions of the Act—Income Tax Act, 1963 (Central Act 43 of 1963)—Sections 269 (SS) and 217 (d).*
Sugunan v. Thulaseedharan I.L.R. 2015 (1) Kerala . . 313
- Negotiable Instruments Act, 1881 (Central Act 26 of 1881)**—*Section 138 (b)—The crucial date to be reckoned as the starting point of time for issuing notice is the date on which the information of dishonour is received by the complainant—The fact that the memo received from the bank regarding date of dishonour bears a subsequent date is of no consequence.*
Padmaja v. State of Kerala I.L.R. 2015 (1) Kerala . . 61
- Negotiable Instruments Act, 1881 (Central Act 26 of 1881)**—*Sections 138 and 141—Where the complaint under Section 138 read with Section 141 is found not maintainable against the Company, the Managing Director or other persons working in different categories of the Company or the persons who are in charge or responsible to the conduct of the Company mentioned under Section 141 (1) and Section 141 (2) cannot be prosecuted further and convicted thereunder on that complaint.*
Fakrudhin, V.P. v. State of Kerala I.L.R. 2015 (1) Kerala . . 659
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- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)**—*Section 232—While exercising the discretion conferred on the Panchayat under Section 232, there is no restriction on the power of the Panchayat disentitling the Panchayat from considering all the relevant factors necessary for the purpose of deciding whether to grant or refuse the permission.*
Salih Kodappana v. State of Kerala I.L.R. 2015 (1) Kerala . . 143
- Penal Code, 1860 (Central Act 45 of 1860)**—*Section 153 A—The High Court can set aside the order of forfeiture if there are no grounds of opinion stated in the notification ordering forfeiture—If there are no grounds of opinion in the notification, it cannot be said that the grounds justify the order— Total absence of such expression of opinion vitiates the declaration of forfeiture.*
Abdul Ali, K.K. v. State of Kerala (F.B.) I.L.R. 2015 (1) Kerala .. 706
- Penal Code, 1860 (Central Act 45 of 1860)**—*Sections 489 B and 489 C—In order to attract the offence under Section 489 B or Section 489 C, mere possession of the counterfeit or fake notes alone is not sufficient but it must further be proved that the accused had the intention to use the counterfeit fake notes as genuine and he had reasons to believe that the notes in his possession was fake or counterfeit currency.*
Abdul Rahiman v. State of Kerala I.L.R. 2015 (1) Kerala . . 641
- Plantation Labour Act, 1951 (Central Act 69 of 1951)**—*Section 10— The management is obliged to provide medical facility to take care of every medical situation; that befalls a plantation worker and his family—When a worker or a family member is afflicted with an ailment which requires expert treatment, not available in the hospital maintained by the management, necessarily the plantation would have to provide the same free of cost, which takes in reimbursement—Plantation Labour Rules, 1959 (Kerala)—Rules 32 to 40.*
Kannan Devan Hills Plantations Company (P) Ltd. v. Moorthy I.L.R. 2015 (1) Kerala . . 1031

- Prevention of Corruption Act, 1988 (Central Act 49 of 1988)**—Section 19— *In a case where sanction is granted by the competent authority, the legality and propriety of the sanction cannot be looked into and decided at the preliminary stage of framing charge, or when an application is made to quash the prosecution or even when application is made by the State to withdraw from prosecution—The legality or propriety of the sanction can be looked into and decided by the Court only during trial.*
 Jiji Thomson v. State of Kerala I.L.R. 2015 (1) Kerala . . . 555
- Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-exploitative Fee and Other Measures to Ensure Equity and Excellence in Professional Education) Act, 2006 (Kerala Act 19 of 2006)**—Section 6—*Once the fee is fixed by the Fee Regulatory Committee, the students as well as the college will be bound by it and the student has to pay that fee throughout, his course—Fee cannot be varied at any time during the course.*
 Sruthi, P. v. Government of Kerala I.L.R. 2015 (1) Kerala . . . 519
- Representation of People Act, 1951 (Central Act 43 of 1951)**—Section 79 (b)— *Even if a person declares himself as a prospective candidate, he cannot be treated as a candidate within the meaning of Section 79 (b), until his nomination is found to be valid and acceptable.*
 Aziz, P. A. v. Prof. K. V. Thomas I.L.R. 2015 (1) Kerala . . . 919
- Representation of People Act, 1951 (Central Act 43 of 1951)**—Sections 81, 82, 115, 123 (1) (A) (a) and 123 (1) (B) (a)—*Allegation that a candidate whose name bears close similarity to another candidate accepted illegal gratification for contesting in the election—The candidate who allegedly received the illegal gratification has to be joined as a respondent in the Election Petition—The failure to implead such candidate as a respondent in the Election Petition is fatal and the Election Petition has to be dismissed, since the same does not comply with the provisions of the Act.*
 Manoj, S. v. Ante Antony I.L.R. 2015 (1) Kerala . . . 193
- Representation of People Act, 1951 (Central Act 43 of 1951)**—Section 123— *The Election Petition should reveal a valid cause of action for sustaining an allegation of corrupt practice—Allegation that the respondent appealed for votes by sending letters by post to voters on the official letter head issued by the Union to a Member of Parliament—Non-production of postal envelop would render the election petition bad under Order VI, Rule 14 of the Code of Civil Procedure—Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order VI, Rule 14.*
 Aziz, P. A. v. Prof. K. V. Thomas I.L.R. 2015 (1) Kerala . . . 919
- Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013)**—Section 1 (3)— *The Act came into force only on 1-1-2014, the date notified by the Central Government and not on 26-9-2013, when it received Presidential assent.*
 Sayed Mohammed Koya Thangal, P. v. Administrator, Union Territory of Lakshadweep Kavarati Island I.L.R. 2015 (1) Kerala . . . 534
- Rules of Business of the Government of Kerala**—*Government Order cannot be set at naught by a Government letter issued in violation of Rules of Business of the Government.*
 State of Kerala v. Thomas, M. M. (F. B.) I.L.R. 2015 (1) Kerala . . . 791
- Service**—*Disciplinary proceedings—If the "enquiry officer is a legally trained person, the delinquent employee shall be entitled to assistance of a legal practitioner in the enquiry.*

Service—Suspension—*Suspension order should not extend beyond three months, if memorandum of charges has not been served on the delinquent— If memorandum of charges has been served, reasoned order must be passed for extending the period of suspension beyond three months.*

Ajay Kumar Choudhary v. Union of India (S.C.) I.L.R.2015(1)Kerala .. 767

Service—*The general rule is that courts will not ordinarily force an employer to retain the service of an employee, who he longer wishes to employ— Exceptions explained.*

Financial Service Executives Welfare Association v. L.I.C. of India I.L.R. 2015 (1) Kerala . . 225

Service—*Three percentage reservation for physically challenged persons— Exhaustion of the main list is not a ground for denying advise to physically challenged persons, since it is a mandatory obligation under the Central Act—Physically challenged candidates are entitled to claim the vacancies which occurred prior to classification of post as one suitable for accommodating such persons—Reservation is effective from commencement of the Act in 1996—Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Central Act 1 of 1996)—Sections 32 and 33.*

Dineshan, E. v. State of Kerala I.L.R. 2015 (1) Kerala .. 235

Service—U.G.C. Scheme—*Period during which teachers of aided colleges were on loss of pay for the purpose of employment abroad cannot be reckoned either for pension or for placement under U.G.C. Scheme.*

State of Kerala v. Thomas, M. M. (F. B.) I.L.R. 2015 (1) Kerala . . 791

Service Rules, 1959 (Kerala)—*Part I, Rule 88 and Part III, Rules 10 and 26—Leave without allowance for taking up employment abroad—Rule 88 is applicable to teachers in aided colleges—Where leave without allowance for taking up employment abroad is not allowable under the rules, the fact that such leave was granted and availed, cannot be a reason for reckoning the period of leave as qualifying service for the purpose of pension—Qualifying service is service during which the teacher discharged his duties, for which he was paid by the Government as provided in Rule 10 of Part III.*

State of Kerala v. Thomas, M. M. (F.B) I.L.R. 2015 (1) Kerala . . 791

Service Rules, 1959 (Kerala)—*Part III, Rules 10 and 11—Qualifying Service—Employee resigning his job in State Government autonomous body to take up employment as State Government Employee—Persons who have put in service in K.S.R.T.C. and Khadi and Village Industries Board prior to joining Government Service, can claim that their service prior to joining Government Service should be reckoned to compute qualifying service for the purpose of pension.*

Mohammed Basheer, A. v. State of Kerala I.L.R. 2015 (1) Kerala . . 10

Specific Relief Act, 1963 (Central Act 47 of 1963)—*Section 6—The remedies under Section 6 of the Specific Relief Act are available to one co-owner or co-owners against another co-owner or co-owners in case of forcible dispossession by the latter without the consent of the former, otherwise than in due course of law—The co-owner who has dispossessed another co-owner, cannot seek exception under Section 6 of the Specific Relief Act, as the question of title is irrelevant in a proceedings under Section 6 of the Specific Relief Act.*

Raghuvaran, N. K. v. Murali, N. K. I.L.R. 2015 (1) Kerala . . 53

Specific Relief Act, 1963 (Central Act 47 of 1963)—*Section 10—Suit for specific performance—*

Where the seller repudiates the entire agreement for sale, buyer need not wait till expiry of the period fixed for completing the transaction for filing suit for specific performance.

Martin v. Devassy I.L.R. 2015 (1) Kerala . . . 525

Specific Relief Act, 1963 (Central Act 47 of 1963)—Section 28—*In cases where a decree is passed for specific performance, the defendant cannot seek rescission of the said decree by invoking Section 28 of the Specific Relief Act—What is contemplated under Section 28 of the Specific Relief Act is the rescission of a contract for sale of immovable property and not rescission of a decree.*

Raveendran v. Gopi I.L.R. 2015 (1) Kerala . . . 626

Spices Board Service (Classification, Control and Appeal) Regulations, 1992—Regulation 7 (VI)—*Penalty—Reduction to a lower time-scale of pay, grade or post—An employee can be reverted to any of the lower posts held by him and there is no restriction that the delinquent shall be reverted only to the next lower post.*

Spices Board v. Nagaraj, A. N. I.L.R. 2015 (1) Kerala . . . 77

Telegraph Act, 1885 (Central Act 13 of 1885)—Sections 10, 16 and 17—*The District Magistrate is clothed with the jurisdiction only if the telegraph lines or post has been placed under, over, along, across, in or upon the property of the person aggrieved—The District Magistrate does not have the jurisdiction for shifting or for granting compensation in respect of a post or telegraph line situated outside the property of the person aggrieved.*

Sunil Kumar, G. v. Kerala State Electricity Board I.L.R 2015 (1) Kerala . . . 622

Transfer of Property Act, 1882 (Central Act 4 of 1882)—Section 53—*A decree declaring a transfer violable under Section 53 of the Transfer of Property Act cannot be made use of by any person other than the creditor who obtained the decree—The declaration making the transfer void under Section 53 of the Transfer of Property Act does not wipe out the transaction or sale under the deed and it is void against the creditor of the transferor, who obtained the decree to that effect.*

Balabhadran v. Sarada I.L.R. 2015 (1) Kerala . . . 548

Transfer of Property Act, 1882 (Central Act 4 of 1882)—Sections 91 and 92—*Right of subrogation—If a person is interested in the payment of money which another is bound by law to pay, and therefore, pays it off, he is entitled to be reimbursed by the other—The personal obligation arising under the circumstances is embodied in Section 69 of the Contract Act and the equitable right of subrogation is embodied in Section 92 of the Transfer of Property Act—In either case, the right of subrogation or reimbursement will arise only on the discharge of the prior mortgage and not earlier than that—Contract Act, 1872 (Central Act 9 of 1872)—Section 69.*

Kodalil Kinattukara Raghavan Nair v. Beena Anil I.L.R. 2015 (1) Kerala . . . 138

Tribunal for Local Self Government Institutions Rules, 1999 (Kerala)—Rule 25—*Power to set aside ex pane order—Tribunal for Local Self Government Institutions has the power to set aside ex parte order, though the power is not expressly conferred by the Rules.*

Eloor Municipality v. Krishnadhar I.L.R. 2015 (1) Kerala . . . 840

Water Supply & Sewerage Act, 1986 (Kerala Act 14 of 1986)—Sections 38 and 38 A—*The water supply to residential apartments cannot be stated to be for non-domestic purpose—Each individual flat owner of a residential apartment is entitled to have separate water connection—*

The applicants for water supply to flats as well as to villas and independent bungalows are to be treated alike by the State and the Water Authority—Kerala Water Authority (Water Supply) Regulations, 1991—Clauses 2 (f), 2 (I), 2(h),7(d),7(g) and 2I.

M/s Hilite Builders (P) Ltd. v. State of Kerala I.L.R. 2015 (1) Kerala . . . 845

Words and phrases—‘*mutatis mutandis*’—*Meaning—Matters or things are generally the same, but to be altered when necessary, as to names, offices and the like.*

State of Kerala v. Haridasan, P. (F. B.) I.L.R. 2015 (1) Kerala . . . 724

Workmen’s Compensation Act, 1923 (Central Act 8 of 1923)—*Sections 4 (I) (a) and (b) Explanation (II) and (c)—Explanation II to Sections (a) and (b) of Section 4 (I) would be applicable in computing the amount of compensation payable under clause (c) of Section 4 (I)—Division Bench Judgment in United India Insurance Co. Ltd. v. Abdul Razak [2012 (11) K.L.T. 818] overruled.*

New India Assurance Co. Ltd. v. Balachandran (F.B.) I.L.R. 2015 (1) Kerala . . . 1

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