



INDIAN LAW REPORTS (Kerala Series)

INDEX TO I.L.R. 2015 (2) KERALA

NOMINAL INDEX

Abdul Rauf	v. Mohammed Hassan	..	921
Achamma Koshy	v. State Bank of Travancore	..	332
All Kerala River Protection Council	v. State of Kerala	..	409
ANERT	v. Gokul, P. G.	..	124
Ananthasivan T.L.	v. Government of Kerala	..	866
Anthapilly Plantation	v. State of Kerala	..	643
Augusthy M.D.	v. Catholic Syrian Bank Ltd.	..	182
Augustine V.M.	v. Ayyappankutty @ Mani	..	764
Ayisu	v. Saidu	..	622
Biju K.V.	v. Neenu Roy	..	772
Biju K.V.	v. Union of India	..	901
Bini B. (Dr.)	v. Jayan P.R.	..	873
Chief General Manager, BSNL	v. Rajesh S. (F.B.)	..	1
Commissioner of Wealth Tax	v. Nazim Zacheria	..	143
Common Cause	v. Union of India (S.C.)	..	569
Deputy Director, E.S.I.	v. M/s Old Courtyard	..	185
Devidas Ramachandra Tuljapurkar	v. State of Maharashtra (S.C.)	..	659
District Collector, Idukki	v. M.D. Dileep	..	585
Dr. K.J. Marykutty	v. State of Kerala	..	560
Dr. Mayank Bharti	v. State of Kerala	..	497
Fazal Mahmood M.T.	v. Rasheed C.P.	..	207
Food Corporation of India	v. State of Kerala	..	61

Francis K.I.	v. K.S.R.T.C. (L. B.)	..	91
George Joseph	v. Pala Municipality	..	735
Godwin Samraj D.P. (Dr.)	v. Abdul Salam M. (Dr.)	..	39
Gopalakrishnan	v. State of Kerala	..	395
Hashir A.R.	v. Shima	..	855
Hassan Koya	v. Transport Commissioner	..	148
Islahul Muslimeem Jama-ath	v. Karunagappally Grama Panchayat..		635
Janardhanan	v. State of Kerala	..	272
Joy S.	v. Sherly P.S.	..	472
K.G.A. Hotels and Resorts Pvt. Ltd.	v. State of Kerala	..	228
Krishnankutty	v. State of Kerala	..	484
Kunhiraman K.	v. Commissioner HR & CE (Administration) Department..		925
Leela K.	v. The District Collector	..	745
Majeed Koliyad @ Mohammed Abdul Khader Majeed	v. National Investigation Agency..		601
Malabar Gold	v. Assistant Commissioner Commercial Taxes	..	964
Manjeri Municipality	v. Mohammed Ali A.M.	..	69
Mariam Beevi	v. Secretary, Athirampuzha Grama Panchayat	..	976
Mathai P.T.	v. The South Indian Bank Ltd.	..	814
Mathew V.O.	v. State of Kerala	..	224
Meenakshy	v. Ananthambal R.	..	66
M/s.Muthoot Finance Ltd.	v. Corporation of Cochin	..	646
M/s.New India Assurance Co. Ltd.	v. Muhammed Ali	..	290
M/s. Peevees Enterprises	v. Muhammed Ashraff	..	351
M/s. Planet Home and Villas (P) Ltd.	v. State of Kerala	..	959
M/s. Pooma Convention Centre (P) Ltd.	v. District Registrar (General)	..	370
Muhammed Subair	v. Corporation of Kozhikode	..	880
Narayanankutty	v. State of Kerala	..	86
Nishad M.A.	v. Ramachandran	..	211
Philomina K.A.	v. The District Collector, Alappuzha..		512
Ponnappan	v. Parukutty	..	296
Poulose P.P.	v. Kappur Grama Panchayat	..	381

Pradeep U.R.	v. Kerala State Co-operative Election Commissioner ..	80
Pradeepkumar P.P.	v. Excise Commissioner ..	176
Prakashan	v. Clement @ James ..	387
Rajendran M.M.	v. The Secretary, Nayarambalam SC/ST Service Co-op. Bank Ltd.	479
Reena George	v. State of Kerala ..	247
Regional Director, ESI Corporation	v. M/s. Royal Plastics Industries ..	243
Rita Bella R.	v. State of Kerala ..	171
Sabumon M.C.	v. The Managing Director ..	789
Sabu P. Thomas (Fr.)	v. Union of India ..	300
Sanathanan Pillai V.	v. Joint Registrar of Co-op Societies(G), Kollam ..	543
Santhosh K.R.	v. Azeez ..	318
Saraswathy Amma	v. Ashok Kumar ..	549
Sathi B.	v. Labour Court, Kollam ..	552
Sathyan K.M.	v. Returning Officer ..	270
Seeraveettil Muhammed Kunhi	v. State of Kerala ..	278
Shajahan M.I.	v. Alice ..	264
Shantanu Khosle (Manufacturer)	v. Inspector, Legal Metrology ..	892
Sheejakumari R.C.	v. Praveen S.R. ..	538
Shoukath C.K.	v. Welfare Fund Inspector No.II ..	985
Shyam Balakrishnan	v. State of Kerala ..	801
Siby Mathews	v. S. Nambi Narayanan ..	521
Siddiqu T.	v. Karunakaran P. ..	937
Simon Pathros Mathai	v. Chief Secretary ..	730
Sindhu George	v. Passport Officer ..	629
Sivaranjini S. Narayanan	v. State of Kerala ..	656
Siyad Hassan	v. Marady Grama Panchayat ..	190
Soudamini K.G.	v. The District Collector, Thrissur..	794
Sreekumar M.G.	v. State of Kerala ..	479
State Bank of Travancore	v. Rosemary Augustine ..	323
State of Kerala	v. Anitha, S. ..	129
State of Kerala	v. Thara Jayakumar ..	849
Sudhakaran N.	v. State of Kerala ..	468

Sukumaran P.	v. Hamza Haji, K. A.	..	166
Sundaram Hammond	v. Padmanabhan K.	..	912
Surendran N.	v. Poovattur East Service Co-op Bank Ltd.	..	339
The Oriental Insurance Co. Ltd.	v. Raveendran M.V.	..	756
The Oriental Insurance Co. Ltd.	v. Sujith	..	761
Thomas Aruja	v. Manoj K.V.	..	829
United India Insurance Company Ltd.	v. Malappuram District Legal Service Authority	..	204
Usha Jacob	v. Corporation of Thiruvananthapuram..		993
Venugopal K.	v. Union of India	..	197
Venugopala Panicker	v. Unnikrishna Panicker	..	779
Vincent M.P.	v. Shajan	..	359
Vinodan	v. Sunil Kumar	..	605
Wilson K.P.	v. Kozhinjampara Grama Panchayat..		884

INDEX TO SPEECH AND NOTIFICATIONS

Speech

Full Court Reference held in the High Court of Kerala on 27th March 2015, on the occasion of the elevation of the Acting Chief Justice Mr. Justice Ashok Bhushan, as the Chief Justice of the High Court of Kerala

.. i – xiv

Full Court Reference held in the High Court of Kerala on 10th April, 2015, on the occasion of the swearing-in-ceremony of Honourable Mr. Justice Sunil Thomas, Honourable Mr. Justice Shaji P. Chaly, Honourable Mrs. Justice Anu Sivaraman, Honourable Mr. Justice Raja Vijayaraghavan, Honourable Mr. Justice B. Sudheendra Kumar, Honourable Mr. Justice K.P. Jyothindranath and Honourable Mrs. Justice Mary Joseph, as Judges of the High Court of Kerala.

.. xv - xi

INDEX TO ACTS AND RULES

ACTS

Central

1860—Act 45 of 1860—Penal Code			
Section 71	<i>See</i>	..	395
Section 292	<i>See</i>	..	659
Section 338	<i>See</i>	..	560
Sections 465, 468, 471 and 477(A)	<i>See</i>	..	278
Section 494	<i>See</i>	..	197
1872—Act 1 of 1872—Evidence Act			
Section 27	<i>See</i>	..	484
1882—Act 4 of 1882—Transfer of Property Act			
Section 60	<i>See</i>	..	814
1890—Act 8 of 1890—Guardian and Wards Act			
Section 7 and 17	<i>See</i>	..	772
1908—Act 5 of 1908—Code of Civil Procedure			
Order IX, Rule 13	<i>See</i>	..	351
Order XXI, Rule 57 and Order XXXVIII, Rule 11(A)(2)	<i>See</i>	..	387
Order XXI, Rules 64 and 66	<i>See</i>	..	182
Order XXXIX, Rules 1 and 2	<i>See</i>	..	69
Order XLI, Rules 23, 23A and 25	<i>See</i>	..	912
Section 11	<i>See</i>	..	814
1923—Act 8 of 1923—Workmen’s Compensation Act			
Section 4(1)(d)	<i>See</i>	..	290
1932—Act 9 of 1932—Partnership Act			
Section 69(3)	<i>See</i>	..	921
1947—Act 14 of 1947—Industrial Disputes Act			
Sections 33 C	<i>See</i>	..	789
Sections 36(1)	<i>See</i>	..	552
1948—Act 34 of 1948—Employees State Insurance Act			
Sections 2 (9) and 45 A	<i>See</i>	..	185
Sections 2 (22)	<i>See</i>	..	243
1948—Act 54 of 1948—Electricity (Supply) Act			
Sections 15 and 79	<i>See</i>	..	171
1951—Act 2 of 1951—Representation of People Act			
Sections 83(1)	<i>See</i>	..	937

1955—Act 25 of 1955—Hindu Marriage Act			
Sections 2(2)	<i>See</i>	..	873
Sections 12 and 24	<i>See</i>	..	538
1956—Act 48 of 1956—National Highways Act			
Sections 3 G	<i>See</i>	..	745
1957—Act 27 of 1957—Wealth Tax Act			
Section 34 A (4 B) (a)	<i>See</i>	..	143
1957—Act 67 of 1957—Mines and Minerals (Development and Regulation) Act.			
Section 4	<i>See</i>	..	409
1961—Act 43 of 1961—Income Tax Act			
Section 192	<i>See</i>	..	300
1963—Act 36 of 1963—Limitation Act			
Section 14	<i>See</i>	..	622
1963—Act 47 of 1963—Specific Relief Act			
Section 6	<i>See</i>	..	296
Section 16 (c)	<i>See</i>	..	605
1967—Act 15 of 1967—Passports Act			
Section 6	<i>See</i>	..	629
1968—Act 46 of 1968—Insecticides Act			
Section 5	<i>See</i>	..	901
Sections 5, 10 and 11	<i>See</i>	..	901
1971—Act 70 of 1971—Contempt of Court Act			
Sections 2(f) and 10	<i>See</i>	..	211
	<i>See</i>	..	829
1973—Act 5 of 1974—Code of Criminal Procedure			
Section 125	<i>See</i>	..	472
1976—Act 60 of 1976—Standards of Weights and Measures Act			
Section 39	<i>See</i>	..	892
1988—Act 59 of 1988—Motor Vehicles Act			
Section 41	<i>See</i>	..	148
Section 166	<i>See</i>	..	207
Section 166	<i>See</i>	..	549
Sections 147 and 149	<i>See</i>	..	756
Sections 149(2) (a)(i)(c)	<i>See</i>	..	761, 779
1993—Act 51 of 1993—Recovery of Debts Due to Banks and Financial Institutions Act			
Sections 19 (25) and 25	<i>See</i>	..	814

1995—Act 43 of 1995—Wakf Act	<i>See</i>	..	635
2005—Act 43 of 2005—Protection of Women from Domestic Violence Act Section 2(s)	<i>See</i>	..	855
2008—Act 34 of 2008—National Investigation Agency Act Section 21	<i>See</i>	..	601
Kerala			
1077 M.E.—Act 1 of 1077 M.E.—Abkari Act Section 4 and SRO No.321/96	<i>See</i>	..	86
Section 8	<i>See</i>	..	272
1958—Act 38 of 1958—Land Relinquishment Act Sections 2(a), 2(b), 3, 4, 4A and 4B	<i>See</i>	..	976
1959—Act 10 of 1960—Court Fees and Suits Valuation Act Sections 52 and 70	<i>See</i>	..	224
1959—Act 17 of 1959—Stamp Act Section 45B	<i>See</i>	..	370
1960—Act 3 of 1960—Town Planning Act	<i>See</i>	..	646
1965—Act 2 of 1965—Buildings (Lease and Rent Control) Act Sections 9 and 11 (2) (b)	<i>See</i>	..	166
1965—Act 2 of 1965—Buildings (Lease and Rent Control) Act	<i>See</i>	..	66
1969—Act 21 of 1969—Co-operative Societies Act Section 16A(1) and (2)	<i>See</i>	..	339
Section 16A, 19A and 20	<i>See</i>	..	339
Section 28B	<i>See</i>	..	80
Section 28B	<i>See</i>	..	270
Section 68	<i>See</i>	..	543
1969—Act 22 of 1969—Toddy Workers Welfare Fund Act Section 2(c)	<i>See</i>	..	985
1975—Act 5 of 1975—Calicut University Act Section 4	<i>See</i>	..	39
1975—Act 2 of 1977—Labour Welfare Fund Act Section 2(f)	<i>See</i>	..	61
1980—Act 21 of 1980—Advocates' Welfare Fund Act Section 16	<i>See</i>	..	866

1994—Act 13 of 1994—Panchayat Raj Act			
Sections 2(xxxv) and 169	<i>See</i>	..	976
Section 232	<i>See</i>	..	391
Section 233(4)	<i>See</i>	..	884
Section 236 (3)	<i>See</i>	..	190
1994—Act 20 of 1994—Municipalities Act			
Section 466 and 550	<i>See</i>	..	993
Section 447 (7)	<i>See</i>	..	228
Section 492	<i>See</i>	..	264
1999—Act 8 of 1999—Lok Ayukta Act			
Section 9(3), 11 and 16	<i>See</i>	..	359
Section 9(8)	<i>See</i>	..	359
2003—Act 30 of 2004—Value Added Tax Act			
Section 8(f)	<i>See</i>	..	964
2013—Act 29 of 2013—Finance Act			
Section 11	<i>See</i>	..	849
RULES			
Kerala			
1959—Service Rules			
Part III, Rules 10 and 11	<i>See</i>	..	91
1960—Civil Services (Classification, Control and Appeal) Rules			
Rule 18	<i>See</i>	..	129
1969—Co-operative Societies Rules			
Rule 18A	<i>See</i>	..	339
1971—Freedom Fighters’ Pension Rules			
Rules 7, 10, 11, and 11A	<i>See</i>	..	512
1982—Criminal Rules of Practice			
Rule 65	<i>See</i>	..	484
1988—Cinema Regulation Rules			
Rule 29	<i>See</i>	..	643
1999—Municipality Building Rules			
Rule 5 (6B)	<i>See</i>	..	635
Rules 34 and 143	<i>See</i>	..	735
2002—Abkari Shops Disposal Rules			
Rules 5 and 9 (2)	<i>See</i>	..	176
2003—Panchayat Raj (Conduct of Cases and Payment of Fees to Legal Advisors) Rules			
Rules 5	<i>See</i>	..	479

2013—Mangalya Nidhi Cess Rules *See* .. 849

Madras

1951—Act 19 of 1951—Madras Hindu Religious and Charitable
Endowments Act
Regulation 20 *See* .. 925

REGULATION

1969—State Bank of Travancore Employees Provident
Fund Regulation
Regulation 20 *See* .. 332

SUBJECT INDEX

- Abkari Act, 1077 M.E. (Kerala Act 1 of 1077 ME.)—Section 4 and SRO No. 321/96—As per SRO No. 321/96, a Sub Inspector of Police authorized to act as an Abkari Officer can exercise his jurisdiction only within the territorial limits of his Police Station—A Circle Inspector of Police is competent to conduct the investigation of a case within his territorial jurisdiction—A Circle Inspector of Police cannot delegate such power of investigation conferred on him as per SRO No. 321/96 to a subordinate police officer.**
Narayanankutty v. State of Kerala I.L.R. 2015 (2) Kerala . . . 86
- Abkari Act, 1077 M. E. (Kerala Act 1 of 1077 M. E.)—Section 8—Absence of an accused at the place of occurrence from where the seizure was made is no reason to hold that he was not having conscious possession of the contraband article—Where there is reason to believe that the concealment took place during his absence, the conclusion can be different.**
Janardhanan v. State of Kerala I.L.R. 2015 (2) Kerala . . . 272
- Abkari Shops Disposal Rules, 2002 (Kerala)—Rules 5 and 9(2)— Present licence can be cancelled for any infraction of licence condition committed in the previous years— Mixing of starch with toddy amounts to infraction of the Rules and therefore the licence can be cancelled, after the filing of the charge-sheet and before completion of the trial— Abkari Act, 1077 M.E. (Kerala Act I of 1077 M.E.)— Sections 26 (b) and 57 (a).**
Pradeepkumar P. P. v. Excise Commissioner I.L.R. 2015 (2) Kerala . . . 176
- Administrative law—Acting under dictation—Circular of the KPCC President interdicting Local Self Government Institutions from granting permission to conduct Bar within its territory is illegal and the local body would be guilty of acting under dictation if it complies with the direction in the Circular.**
K.G.A. Hotels and Resorts Pvt. Ltd. v. State of Kerala I.L.R. 2015 (2) Kerala . . . 228
- Advocates' Welfare Fund Act, 1980 (Kerala Act 21 of 1980)—Section 16— Member of the welfare fund can get payment due from the fund in terms of Section 16 only if he satisfies the conditions requisite for such payment, including cessation of practice—Such a condition is not violative of fundamental rights of the member or of Section 30 of Advocates Act— Advocates Act, 1961 (Central Act 25 of 1961)—Section 30.**
Ananthasivan, T.L. v. Government of Kerala I.L.R. 2015 (2) Kerala . . . 866

- Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—*Once an Act is extended to an area, it would apply to that geographical limit— The application of the law so extended to a geographical limit does not lose its efficacy, co-terminus with any modification of the notification regarding that particular territory under the Panchayat Act, Panchayat Raj Act or any other Municipal Law, which may provide for a delimitation exercise for the purpose of that Act—Panchayat Act, 1960 (Kerala Act 32 of 1960)—Section 2 (21).*
Meenakshy v. Ananthambal, R. I.L.R. 2015 (2) Kerala . . . 66
- Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—*Sections 9 and 11 (2) (b)—If the landlord refuses to issue receipt for payment of rent, the tenant can remit the rent by money order, after deducting the money order commission or deposit the rent into a bank account specified by the landlord—The provision contained in Section 9 is a protection to the tenant and it is for the tenant to make use of such protection, in case the landlord refuses to issue receipt for the rent or advance paid by the tenant.*
Sukumaran P. v. Hamza Haji, K.A. LL.R. 2015 (2) Kerala . . . 166
- Calicut University Act, 1975 (Kerala Act 5 of 1975)**—*Section 4—University functioning under a State cannot have extraterritorial jurisdiction— Calicut University does not have authority to conduct study centre beyond its territorial jurisdiction—University directed to close down all overseas study centres immediately—Directions issued by the University Grants Commission is binding on all Universities.*
Godwin Samraj, D. P. (Dr.) v. Abdul Salam, M. (Dr.) I.L.R. 2015 (2) Kerala . . . 39
- Cinema Regulation Rules, 1988 (Kerala)**—*Rule 29—Order of the Municipal Council rejecting the request for enhancement of ticket rate should be challenged in appeal before the Revenue Divisional Officer.*
Anthapilly Plantation v. State of Kerala I.L.R. 2015 (2) Kerala . . . 643
- Civil Services (Classification, Control and Appeal) Rules, 1960 (Kerala)**—*Rule 18—Under Article 311 (2) (a) a convicted employee is not entitled to notice or opportunity of hearing before dismissal—The interest of the employee is fully protected by Rule 18 of the KCS (CC & A) Rules, 1960, which provides, that an employee, if his conviction is set aside, shall be entitled for the benefits as if the employee was never dismissed from service—Constitution of India—Article 311 (2) (a).*
State of Kerala v. Anitha S. I.L.R. 2015 (2) Kerala . . . 129
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Order IX, Rule 13—If sufficient cause is made out, courts should be liberal in allowing petition to set aside ex parte decree—Onerous condition should not be imposed for setting aside ex pane decree.*
M/s Peeves Enterprises v. Muhammed Ashraff I.L.R.2015(2)Kerala . . . 351
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Order XXI, Rule 57 and Order XXXVIII, Rule 11 (A)(2)—The order of attachment before judgment would cease to exist when the suit is dismissed on default also, though no formal order of withdrawal of attachment is passed—There is a statutory duty imposed on the Court to pass an order withdrawing the attachment made before judgment, while dismissing the suit.*
Prakashan v. Clement @ James I.L.R. 2015 (2) Kerala . . . 387
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Order XXI, Rules 64 and 66—An obligation is imposed on the Executing Court to first decide whether it is necessary to*

- bring the entire attached property to sale or such portion thereof as may be seen necessary' to satisfy the decree—If the property is large and the decree to be satisfied is small, the Court shall bring only such portion of the property, the proceeds of which would be sufficient to satisfy the claim of the decree-holder.*
 Augusthy, M. D. v. Catholic Syrian Bank.Ltd. I.L.R. 2015 (2) Kerala . . . 182
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XXXIX, Rules 1 and 2—***In a suit for realization of money from the Municipality, order of temporary injunction granted restraining the Municipality from undertaking any construction work or making any payment till the admitted amount due to the plaintiff is paid—An injunction cannot be granted against a statutory authority preventing that authority from discharging its normal functions—Constitution of India— Article 243 P to 243 ZG—Municipality Act, 1994 (Kerala Act 20 of 1994)—Sections 30 and 563.*
 Manjeri Municipality v. Mohammed Ali, A. M. I.L.R. 2015 (2) Kerala . . . 69
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XLI, Rules 23, 23 A and 25—***The Appellate Court can remand a suit for fresh disposal only in cases where the decree is reversed in appeal and a retrial is considered necessary—There is no power for the Appellate Court to remand a suit for fresh disposal on the ground that the evidence adduced by a party needs clarity.*
 Sundaram Hammond v. Padmanabhan, K. I.L.R. 2015 (2) Kerala . . . 912
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Section 11—***When the issue raised was directly in issue in a composite order, and only part of the order is challenged, the appeal so filed challenging only one order is barred by res judicata on account of the non-filing of the appeal against the unchallenged part of the composite order.*
 Mathai, P. T.v. The South Indian Bank Ltd. I.L.R. 2015 (2) Kerala .. 814
- Code of Criminal Procedure, 1973 (Central Act 5 of 1974)—Section 125—***The fact that the husband has obtained an order for restitution of conjugal rights, by itself, is not a ground to deny maintenance to the wife, if the wife is able to establish that her refusal to live with him is on justifiable grounds and for valid reasons.*
 Joy S. v. Sherly, P. S. I.L.R. 2015 (2) Kerala . . . 472
- Code of Criminal Procedure, 1973 (Central Act 5 of 1974)—Section 125—***The Family Court has to pass an express order while awarding or refusing to award maintenance—No reasons are required to be stated by the Family Court while awarding maintenance from the date of petition.*
 Joy S. v. Sherly, P. S. I.L.R. 2015 (2) Kerala . . . 472
- Constitution of India—Article 14—***Publication of photo of political leaders in advertisements paid for from public exchequer—Publication of photographs in Government advertisements, except that of the President of India, Prime Minister and Chief Justice of India, prohibited—However the embargo will not apply to advertisements issued by Government to commemorate anniversary of national heroes.*
 Common Cause v. Union of India (S.C.) I.L.R. 2015 (2) Kerala .. 569
- Constitution of India—Articles 14 and 15—***For admission to Postgraduate medical course, no reservation can be made on the basis of place of birth or domicile— The clause in the*

- prospectus granting reservation of 50% to Indian citizens of Kerala origin cannot be sustained.*
 Dr.Mayank Bharti v. State of Kerala I.L.R.2015(2)Kerala .. 497
- Constitution of India—Articles 19(1) (a) and 19(2)—Freedom of speech and expression as enshrined under Article 19(1) (a) of the Constitution is not absolute in view of Article 19(2)—Though the right to freedom and expression is of grate value and with the passage of time and growth of culture it has to pave the path of ascendancy, the right cannot be put in the compartment of absoluteness.**
 Devidas Ramachandra Tuljapurkar v. State of Maharashtra (S.C.) I.L.R. 2015 (2) Kerala . . 659
- Constitution of India—Article 21—To be a Maoist sympathiser is not a crime and unless the police forms a reasonable opinion that activities of a citizen are illegal, personal liberty of such a person cannot be curtailed on the ground that he is a Maoist.**
 Shyam Balakrishnan v. State of Kerala I.L.R. 2015 (2) Kerala . . 801
- Constitution of India—Article 226—Freedom Fighters' Pension—The scope of judicial review of a decision taken by the District Collector refusing to grant or continue Freedom Fighters' Pension, is not to reappreciate the materials and come to a different conclusion—The High Court while exercising power of judicial review does not sit in appeal over the decision of the administrative authority.**
 Philomina, K. A. v. The District Collector, Alappuzha I.L.R. 2015 (2) Kerala .. 512
- Constitution of India—Article 226—The CBI filing a report to the Government pointing out irregularities in the investigation conducted by police officers in the ISRO Case—The State Government, after considering the report of the CBI and other materials, and also taking into consideration the considerable delay of 15 years, decided not to take disciplinary action against the investigating officers on the basis of the CBI report—It is not for the High Court while exercising power under Article 226 to interfere with such decision making process and arrive at a different finding or to direct the Government to reconsider the decision—Police Departmental Inquiries (Punishment and Appeal) Rules, 1958 (Kerala)—Rule 6—Service Rules, 1959 (Kerala)— Part HI, Chapter I, Rule 3.**
 Siby Mathews v. S. Nambi Narayanan I.L.R. 2015 (2) Kerala .. 521
- Constitution of India—Article 226—Service—Applications submitted by candidates having 777, ITC and Diploma qualifications rejected on the ground that they are overqualified for appointment to the post of peon, which required a pass in Class X as per notification—A qualification can be higher to as compared to another qualification when both are in the same stream—Normally higher qualifications is defined in the context of academic qualifications—But when the qualifications are in two different streams, one academic and the other technical qualification, one cannot be said to be higher to the other.**
 State Bank of Travancore v. Rosemary Augustine I.L.R. 2015(2)Kerala .. 323
- Constitution of India—Article 226—The High Court, while relegating the parties to approach the civil court to establish their rights, should leave the parties to obtain interim order from the civil court—The remedy under Article 226 cannot be utilized for resolution of property or title disputes.**
 District Collector, Idukki v. M. D. Dileep I.L.R. 2015 (2) Kerala .. 585
- Constitution of India—Article 226—A specific performance of contract would not ordinarily be enforced by issuing a writ of mandamus—Adjudication of disputed questions of fact**

cannot be entertained in a Writ Petition filed under Article 226—A writ will lie against a Co-operative society only when the duty owed by Co-operative society is of a public nature or when there is infringement of any statutory rules by such Co-operative society.

Rajendran, M. M. v. The Secretary, Nayarambalam SC/ST Service Co-op. Bank Ltd.
I.L.R. 2015 (2) Kerala .. 493

Constitution of India—Article 226—Appointment of Chief Secretary challenged in public interest litigation—Unless consideration of the State Government is palpably perverse, against the interest of the State, in violation of constitutional provisions or against public interest in terms of the Constitution of India, the High Court will not interfere with the selection in a public interest litigation.

Sudhakaran N. v. State of Kerala I.L.R. 2015 (2) Kerala .. 468

Constitution of India—Article 226—A writ court will bear in mind the conduct of the party who is invoking its jurisdiction—If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter—Writ jurisdiction can be invoked to protect an established right but not to establish a right.

Soudamini K.G. v. The District Collector, Thrissur I.L.R. 2015 (2) Kerala .. 794

Constitution of India—Article 226—Compensation should be paid by the State to the petitioner for illegal arrest—The High Court has ample power under Article 226 to direct the State to pay compensation for illegal arrest.

Shyam Balakrishnan v. State of Kerala I.L.R. 2015 (2) Kerala .. 801

Constitution of India—Article 226—Once the High Court declines to exercise its jurisdiction on the ground that the matter involved dispute questions of fact that are to be adjudicated upon, other than by way of summary proceedings, or the parties have an efficacious alternate remedy, it is not advisable for the High Court to express any opinion on the merits of the matter.

M/s Planet Home and Villas (P) Ltd. v. State of Kerala I.L.R. 2015 (2) Kerala .. 959

Constitution of India—Article 226—The settlement entered into by the Insurance Company and the claimant in the Lok Adalath cannot be reopened on the ground that the claim was not admissible.

United India Insurance Company Ltd. v. Malappuram District Legal Service Authority
I.L.R. 2015 (2) Kerala .. 204

Constitution of India—Article 226 (2)—Registration granted under the Insecticides Act will have an impact on the people living in the entire country and therefore it cannot be said that cause of action would not arise within the territorial jurisdiction of the Kerala High Court in respect of registration granted to a company having its registered office at Delhi.

Biju K. V. v. Union of India I.L.R. 2015 (2) Kerala .. 901

Constitution of India—Article 265—Validation of taxing statute—Tax collected under a defective/invalid law can be validated by the legislature by providing jurisdiction, where jurisdiction has not been properly invested before; sometimes by retrospective enactment and then by fiction making the tax already collected to stand and sometimes by giving its

- own meaning and interpretation to the term/law under which the tax was collected— Motor Vehicles Taxation Act, 1976 (Kerala Act 19 of 1976)— Section 2 (e).*
Reena George v. State of Kerala I.L.R. 2015 (2) Kerala . . . 247
- Constitution of India—Article 300 A—Delay in deposit of the enhanced compensation by the State in land acquisition proceedings—The High Court cannot be a mute spectator to the inaction on the part of the State Government In not depositing the requisite amounts to satisfy the decree.**
Simon Pathros Matthai v. Chief Secretary I.L.R. 2015 (2) Kerala .. 730
- Constitution of India—Article 311—The conviction of an employee is not wiped out merely by obtaining a stay of conviction from the Appellate Court— There is no impediment for the employer in invoking the power under Article 311 (2) (a) of the Constitution to dismiss a convicted employee from service—Civil Services (Classification, Control and Appeal) Rules, 1960 (Kerala)-Rule 18.**
State of Kerala v. Anitha, S. I.L.R. 2015 (2) Kerala . . . 129
- Contempt of Courts Act, 1971 (Central Act 70 of 1971)—Failure to state that the petitioner had not filed any petition earlier seeking similar reliefs, in terrns of 2nd proviso to Rule 150—Unless there is positive evidence to show that the litigant was responsible for such omission and he was guided by mala fides or that he has deliberately omitted the requirement of the proviso to gain advantage from the Court, the litigant cannot be proceeded against under the Contempt of Courts Act—Rules of the High Court of Kerala, 1971—Rule 150, 2nd proviso.**
Nishad M. A. v. Ramachandran, N. I.L.R. 2015 (2) Kerala . . . 211
- Contempt of Courts Act, 1971 (Central Act 70 of 1971)—Sections 2 (f) and 10—The institution of Ombudsman, as defined under the Kerala Panchayat Raj Act, 1994 cannot be treated to be a 'Subordinate Court' within the meaning of the Contempt of Courts Act, 1971—Proceedings under the Contempt of Courts Act cannot be initiated for alleged disobedience of the orders of the Ombudsman.**
Thomas Aruja v. Manoj, K. V. I.L.R. 2015 (2) Kerala . . . 829
- Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 16A(1) and (2)—The ineligibility due to non-compliance of clauses (a) and (b) to Section 16A(1) will not ipso facto result in automatic cessation of membership—Section 16A (2) makes it clear that despite such ineligibility, the person concerned would continue to be a member until the society removes that person from membership after giving him an opportunity of making his representation.**
Surendran, N. v. Poovattur East Service Co-op. Bank Ltd. I.L.R. 2015 (2) Kerala .. 339
- Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Sections 16A, 19A and 20— Notwithstanding the other provisions of the Act, Section 20 confers right on every member of a Society to have one vote in the affairs of the Society—Sections 16A and 19A will not affect the entitlement of persons to cast their votes in the election, until they are removed from membership in accordance with the procedure prescribed under Rule 16— Co-operative Societies Rules, 1969 (Kerala)—Rule 16.**
Surendran, N. v. Poovattur East Service Co-op. Bank Ltd. I.L.R. 2015 (2) Kerala .. 339
- Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 28 B—It is not an inflexible Rule that an election process which is halted has to be continued from that stage only,**

- notwithstanding the efflux of time— Co-operative Societies Rules, 1969 (Kerala)—Rules 35 A and 35 B.*
Pradeep, U. R. v. Kerala State Co-operative Election Commissioner LL.R. 2015 (2) Kerala . . . 80
- Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 28 B—The power of superintendence, direction and control for the conduct of all elections to Co-operative Societies is now vested with the State Cooperative Election Commission—The Returning Officer is therefore denuded of the power to issue a notification for election since the said power is vested in the State Co-operative Election Commission— Co-operative Societies Rules, 1969 (Kerala)—Rule 35.**
Sathyan, K. M. v. Returning Officer LL.R. 2015 (2) Kerala . . . 270
- Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 68—Section 68 confers power on the Registrar only to direct repayment of the loss caused to the society, with interest or with cost or compensation—Such an order can be issued against a person only if he had failed in paying/repaying the amount of loss—Once the amount of alleged loss is repaid, there exists no circumstances for demanding such payment and hence an order under Section 68 (2) cannot be issued.**
Sanathanan Pillai V. v. Joint Registrar of Co-op. Societies (G), Kollam I.L.R. 2015 (2) Kerala .. 543
- Co-operative Societies Rules, 1969 (Kerala)—Rule 18A—Though the provisions of Rule 16A has come into force with effect from 26-11-2014, the lime-limit for Societies to discharge the obligations under the Rule would run only after the 1st of April, 2015.**
Surendran.N. v. Poovattur East Service Co-op. Bank Ltd. LL.R. 2015 (2) Kerala .. 339
- Court Fees and Suits Valuation Act, 1959 (Kerala Act 10 of 1960)—Sections 52 and 70—At the time of filing the cross objection, cross objector need pay only 1/3rd of the court fee payable—The cross objection is dismissed in limine and the court fee is paid in full at the time of filing the cross objection, the cross objector is entitled to get refund of 2/3rd court fee paid by him,**
Mathew, V. O. v. State of Kerala LL.R. 2015 (2) Kerala . . . 224
- Criminal Rules of Practice, 1982 (Kerala)—Rule 65—The person against whom an offence is alleged to have been committed has to be described in the charge by his name—Such person should not be described by his position in the case as prosecutor or witness— Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 211.**
Krishnankutty v. State of Kerala I.L.R. 2015 (2) Kerala .. 484
- Criminal Trial—It is an unwholesome practice to refer to the witnesses as C.W. 1, C.W. 2 etc. in the deposition of other witnesses and in the judgment—If a witness is not examined, in the deposition of other witnesses and in the judgment he shall be referred to by his name and if such witness has already been examined he shall be referred only as prosecution witness suffixing his number (P.W.1, P.W.2 etc.)**
Krishnankutty v. State of Kerala I.L.R. 2015 (2) Kerala .. 484
- Education—As per the Circular issued by the Commissioner of Government Examinations dated 22-9-2012, based on G.O. No. 323 dated 16-2-2012, the Headmaster/Headmistress of the School concerned, is competent to correct the school records of students from 1st Standard to 10th Standard, who are on the rolls of the School.**
Sivaranjini S. Narayanav. Sate of Kerala I.L.R. 2015 (2) Kerala .. 656

- Electricity (Supply) Act, 1948 (Central Act 54 of 1948)**—Sections 15 and 79—*A long term settlement cannot override the statutory regulation in deciding the eligibility for appointment of dependents of employees, who retire on invalid pension—Kerala State Electricity Board (Appointment of Dependents of Board Employees Die-in-harness or who are Permanently Disabled and are Retiring on Invalid Pension) Regulations, 1985—Regulation 7.*
Rita Bella, R. v. State of Kerala I.L.R. 2015 (2) Kerala . . . 171
- Employees State Insurance Act, 1948 (Central Act 34 of 1948)**—Sections 2 (9) and 45 A—*A trainee in an establishment is liable to be treated as 'employee' for the purpose of coverage of the establishment under the Act.*
Deputy Director, E.S.I, v. M/s Old Courtyard I.L.R. 2015 (2) Kerala . . . 185
- Employees State Insurance Act, 1948 (Central Act 34 of 1948)**—Section 2 (22)— *Travelling allowance or the value of any travelling concession would be outside the purview of the term wages— Even if the travelling allowance is paid in a lump sum along with salary, it would not cease to be travelling allowance within the meaning of Clause (b) of Section 2 (22).*
Regional Director, E.S.I. Corporation v. M/s Royal Plastics Industries I.L.R. 2015 (2) Kerala . . . 243
- Evidence Act, 1872 (Central Act 1 of 1872)**—Section 27—*Discovery of a fact can be said to have been proved only when the investigating officer has deposed to the information obtained by him from the accused and to the subsequent seizure of the object pursuant to the receipt of such information.*
Krishnankutty v. State of Kerala I.L.R. 2015 (2) Kerala .. 484
- Finance Act, 2013 (Kerala Act 29 of 2013)**—Section 11—*State has no legislative competence to levy Mangalya Nidhi Cess on wedding celebrations—Constitution of India—Schedule VII, List II, Entries 62 and 66— Mangalya Nidhi Cess Rules, 2013 (Kerala).*
State of Kerala v. Thara Jayakumar I.L.R. 2015 (2) Kerala ., 849
- Freedom Fighters' Pension Rules, 1971 (Kerala)**—Rules 7, 10, 11 and 11 A—*The intent of the Rules is to grant sanction not only to the freedom fighter, but his widow and other heirs as per Rule—The continuance of freedom fighters' pension cannot be denied only on the ground that after the death of the freedom fighter, the widow of the freedom fighter had been paid the pension till her death—Rule 11 is only for the purpose of putting an outer limit for payment of pension to the widow—The Rule cannot be read as a restriction on continuance of pension to other heirs of freedom fighters, if they are so entitled.*
Philomina, K. A. v. The District Collector, Alappuzha I.L.R.2015(2)Kerala .. 512
- Guardian and Wards Act, 1890 (Central Act 8 of 1890)**—Sections 7 and 17— *It is the welfare and interest of the child and not the rights of the parents which is the determining factor for deciding the question of custody— A child is not "property" or "commodity"—The issues relating to custody of minors and children of tender age have to be handled with love, affection, sentiments and by applying human touch to the problem.*
Biju, K. V. v. Neenu Roy I.L.R. 2015 (2) Kerala . . . 772
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)**—Section 2 (2)—*The Act does not apply to members of the Scheduled Tribe— 'Kuruma' is a Scheduled Tribe of the State of Kerala and members of the tribe cannot invoke the provisions of Hindu Marriage Act, unless*

there is a notification issued by the Central Government making the Act applicable to the tribe.

Bini, B. (Dr.) v. Jayan, P. R. I.L.R. 2015 (2) Kerala .. 873

Hindu Marriage Act, 1955 (Central Act 25 of 1955)—Sections 12 and 24—*The mere fact that the relationship between the parties to a marriage is sought to be annulled by initiation of proceedings under Section 12 of the Hindu Marriage Act cannot deny the right of pendente lite maintenance to the wife under Section 24 of the Act—The contention that Section 24 is not applicable to proceedings under Section 12 of the Act cannot be accepted.*

Sheejakumari R. C. v. Praveen, S. R. I.L.R. 2015 (2) Kerala .. 538

Income Tax Act, 1961 (Central Act 43 of 1961)—Section 192—*Tax deduction at source—Tax is liable to be deducted at source from the Salary/Pension of members of religious congregations, who are employed by the Government.*

Sabu P. Thomas (Fr.) v. Union of India I.L.R. 2015 (2) Kerala . . 300

Industrial Disputes Act, 1947 (Central Act 14 of 1947)—Section 33 C—*Termination, resignation and retirement would have to be treated similarly for the purpose of deciding the eligibility to invoke the provisions under Section 33C— A resigned employee would also be entitled to invoke the provisions under Section 33 C for claiming any benefit, computable in terms of money, which had arisen during the period of his employment.*

Sabumon, M. C. v. The Managing Director I.L.R. 2015 (2) Kerala .. 789

Industrial Disputes Act, 1947 (Central Act 14 of 1947)—Section 36(1)—*Restriction on appearance of lawyers—Despite enforcement of Section 30 of Advocates Act, Advocate cannot appear for one of the parties before Labour Court, Tribunal or National Tribunal, without consent of the other side—Advocates Act, 1961 (Central Act 25 of 1961)—Section 30.*

Sathi B. v. Labour Court, Kollam I.L.R.2015(2)Kerala .. 552

Insecticides Act, 1968 (Central Act 46 of 1968)—Section 5—*The registration committee has the power to review its own decision—The embargo on exercise of power of review by quasi-judicial authority/judicial authority, is not applicable to an administrative authority, while deciding a question relating to the grant of licence—Mere presence of certain attributes of quasi-judicial function or judicious approach in taking decision for grant of licence would not convert administrative adjudication into quasi-judicial adjudication—General Clauses Act, 1897(Central Act 10 of 1897)—Section 21.*

Biju K.V. v. Union of India I.L.R. 2015 (2) Kerala .. 901

Insecticides Act, 1968 (Central Act 46 of 1968)—Sections 5, 10 and 11—*A third party has no locus standi to challenge the procedure adopted by the registration committee to review its earlier decision.*

Biju,K. V. v. Union of India I.L.R. 2015 (2) Kerala .. 901

Labour Welfare Fund Act, 1975 (Kerala Act 2 of 1977)—Section 2 (f)—*Establishment of the Central Government—Statutory corporations such as Food Corporation of India are not establishments of the Central Government—Food Corporation of India is not covered by the exclusionary clause of Section 2 (f) (v) of the Kerala Labour Welfare Fund Act.*

Food Corporation of India v. State of Kerala I.L.R. 2015 (2) Kerala . . 61

- Land Relinquishment Act, 1958 (Kerala Act 38 of 1958)**—Sections 2(a), 2(b), 3, 4, 4A and 4B—*The provisions under the Land Relinquishment Act does not have any application to residential properties—It essentially deals with agricultural lands—It is a legislation meant to sub-serve the agrarian reforms—The expression Government does not include a Local Self Government Institution as per the provisions of the Act—General Clauses Act, 1897 (Central Act 10 of 1897)—Section 3(23).*
 Madam Beevi v. Secretary, Athirampuzha Grama Panchayat I.L.R. 2015 (2) Kerala .. 976
- Limitation Act, 1963 (Central Act 36 of 1963)**—Section 14—*Section 14 of the Limitation Act excludes not only the period of pendency of infructuous proceeding in a court of law, but also the time occupied for taking indispensable and preparatory steps to institute further proceedings, like obtaining certified copies of the judgments and orders.*
 Ayisu v. Saidu I.L.R.2015(2)Kerala .. 622
- Lok Ayukta Act, 1999 (Kerala Act 8 of 1999)**—Sections 9(3), 11 and 16—*Affording of opportunity to the public servant, against whom complaint is filed, is necessitated only if the Lok Ayukta proposes to conduct any investigation under the Act, after the preliminary enquiry—Entrustment of investigation with a police officer, during the course of preliminary enquiry, so as to enable the Lok Ayukta to take a decision as to whether the complaint should be admitted or not, does not amount to ordering a regular investigation—Non-issuance of a copy of the complaint to the public servant, at this stage, does not amount to violation of Section 9(3)(a) and (b) of the Act.*
 Vincent, M. P. v. Shajan I.L.R. 2015 (2) Kerala .. 359
- Lok Ayukta Act, 1999 (Kerala Act 8 of 1999)**—Section 9(8)—*It is not obligatory to implead the State as a party to the complaint, unless Government interest is involved.*
 Vincent, M. P. v. Shajan I.L.R. 2015 (2) Kerala .. 359
- Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act 19 of 1951)**—Section 22—*When a Scheme is framed for the purpose of administration of a public religious institution, the provisions of the Act and Rules will apply to the Scheme, unless the same is specifically excluded—Section 22 of the Act mandates that the age of a non hereditary trustee shall be not less than 25 years and not more than 70 years.*
 Kunhiraman, K. v. Commissioner HR & CE (Administration) Department I.L.R. 2015 (2) Kerala .. 925
- Mangalya Nidhi Cess Rules, 2013 (Kerala)**—*Unless State offers some services to the assesee and in the absence of any regulatory measure being employed with regard to the ceremony of marriage, no fee can be levied— Constitution of India—Schedule VII, List II, Entries 62 and 66.*
 State of Kerala v. Thara Jayakumar I.L.R. 2015 (2) Kerala .. 849
- Page Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957)**—Section 4—*In cases where quarrying/mining lease which were existing on the date of issuance of Notification dated 14-9-2006 or on the date of order dated 18-5-2012 by the Ministry of Environment and Forests, with regard to area less than five Hectares, no environmental clearance with regard to extraction of minor mineral is required and that environmental clearance is required only in case of projects which came into existence after these dates—Judgment of the Apex Court in Deepak Kumar's case did not contemplate environmental clearance for an area of less than five Hectares with regard*

- to existing mining lease/mining permits on the date of judgment— Environmental Protection Act, 1980 (Central Act 29 of 1986).*
All Kerala River Protection Council v. State of Kerala I.L.R. 2015 (2) Kerala . . . 409
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 41—Classification of a vehicle would depend upon the manufacture's certification—Only in case of any ambiguity regarding such classification, the Transport Commissioner or any other competent authority can issue any clarification regarding classification—Motor Vehicles Rules, 1989 (Central)— Rules 47 and 126.*
Hassan Koya v. Transport Commissioner I.L.R. 2015 (2) Kerala . . . 148
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Sections 147 and 149— The liability under Section 147 to third parties and the operation of Section 149 qua Section 147 would become relevant, as regards liabilities, only when there is a contract of insurance—Such liability would have to be met only if the contract is valid—If the contract of insurance has been cancelled and such cancellation duly intimated the insurance company would not be liable to satisfy the claim.*
The Oriental Insurance Co. Ltd. v. Raveendran, M. V. I.L.R. 2015 (2) Kerala . . . 756
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 149 (2) (a) (i) (c)— The breach of condition in respect of non-renewal of certificate of fitness or permit would not entitle the insurer to take up a defence under Section 149 (2) (a) (i) (c)—If the vehicle is used only for the permitted purpose, then even if the accident occurs when the permit or fitness certificate ceased to exist, it amounts to a technical violation only—For avoiding the liability relying on Section 149 (2) (a) (i) (c), the insurer should plead and prove that the offending vehicle was used for a purpose not authorized by the permit.*
Augustine, V. M. v. Ayyappankutty @ Mani I.L.R. 2015 (2) Kerala . . . 764
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 166—Deprivation of an organ, such as kidney, as a result of a road traffic accident, amounts to disablement as also deprivation of the systemic efficacy of the human body and mind.*
The Oriental Insurance Co. Ltd. v. Sujith I.L.R. 2015 (2) Kerala .. 761
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 166—Mother of the deceased is entitled to claim compensation for the death of her son and on the death of the mother, her legal heirs are entitled to prosecute her claim—The compensation payable to the mother enures to the estate of the mother, which her legal heirs would be entitled to.*
Saraswathyamma v. AshokKumar I.L.R. 2015 (2) Kerala .. 549
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 166—Standard of proof required to prove negligence in a claim petition filed under Section 166 of the Motor Vehicles Act is less than the standard of proof required in a criminal case.*
Venugopala Panicker v. Unnikrishna Panicker I.L.R. 2015 (2) Kerala . . . 779
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 166—The Motor Accidents Claims Tribunal, without any further materials, cannot rely on the Scene Mahazar to contradict the Final Report filed by the police regarding negligence resulting in the accident.*
Fazal Mahmood M. T. v. Rasheed, C. P. I.L.R. 2015 (2) Kerala . . . 207

- Municipalities Act, 1994 (Kerala Act 20 of 1994)**—*Section 447 (7)*—*Grant of licence to Abkari shop—Municipality has to consider application submitted before it and decide independently whether permission sought is to be granted or not—Statutory authority cannot take a blanket decision that it will not exercise the discretion at all.*
K.G.A. Hotels and Resorts Pvt. Ltd. v. State of Kerala I.L.R. 2015 (2) Kerala . . . 228
- Municipality Act, 1994 (Kerala Act 20 of 1994)**—*Sections 466 and 550*—*The Corporation has a statutory obligation to ensure that no unauthorized private market is held on any property—The Corporation cannot refuse to perform its statutory obligation by taking up the contention that any direction to enforce Section 466 would be futile, in the absence of definite information about the persons running the illegal market.*
Usha Jacob v. Corporation of Thiruvananthapuram I.L.R. 2015 (2) Kerala . . . 993
- Municipalities Act, 1994 (Kerala Act 20 of 1994)**—*Section 492*—*Once consent is obtained by the licensee from the landlord and thereafter if the licensee continues as a lessee of the demised premises even after expiry of the lease period, his possession does not per se become illegal—The consent letter of the landlord cannot be a pre-condition for renewal of the license already granted.*
Shajahan, M. I. v. Alice I.L.R. 2015 (2) Kerala . . . 264
- Municipality Building Rules, 1999 (Kerala)**—*Building permit—Building permit cannot be refused on the basis of a proposal to acquire the land.*
Muhammed Subair v. Corporation of Kozhikode I.L.R. 2015 (2) Kerala . . . 880
- Municipality Building Rules, 1999 (Kerala)**—*Rule 5(6B)*—*Application for development for religious purpose—Prior approval of the District Collector is required for development of any property for religious purpose and no one can carry on any religious activity in a structure exclusively authorised for secular purpose.*
Islahul Muslimeen Jama-Ath v. Karunagappally Grama Panchayat I.L.R. 2015 (2) Kerala . . . 635
- Municipality Building Rules, 1999 (Kerala)**—*Rules 34 and 143*—*There can be no estoppel against the statute—At the same time, if a person's action becomes illegal owing to subsequent events, especially not at his own behest, but at the behest of the person or authority who calls it illegal, the person who had acted bonafide and had no say in the unfolding of the subsequent sequence of events cannot be penalized, thereby defeating his substantial right to property.*
George Joseph v. Pala Municipality I.L.R. 2015 (2) Kerala . . . 735
- National Highways Act, 1956 (Central Act 48 of 1956)**—*Section 3 G*—*Application for arbitration under Section 3 G (5) should be filed within three years from the date on which the compensation is determined by the competent authority and intimated to the landowner.*
Leela K. v. The District Collector I.L.R. 2015 (2) Kerala . . . 745
- National Highways Act, 1956 (Central Act 48 of 1956)**—*Section 3G*—*Section 5 of the Limitation Act is not applicable to an application filed under Section 3 G for referring the dispute to arbitration—Limitation Act, 1963 (Central Act 36 of 1963)—Section 5.*
Leela K. v. The District Collector I.L.R. 2015 (2) Kerala . . . 745

- National Investigation Agency Act, 2008 (Central Act 34 of 2008)**—Section 21— *All persons involved in cases falling under the canopy of the National Investigation Agency Act, even if no NIA Court is constituted, are entitled to urge their grievance before a Bench of Two Judges, whatever be the provision they invoke for institution of proceedings—Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 482.*
Majeed Koliyad @ Mohammed Abdul Khader Majeed v. National Investigation Agency I.L.R. 2015 (2) Kerala .. 601
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)**—Sections 2(xxxv) and 169—*If a pathway is within the confines of a residential compound however sprawling it may be, whatever lies therein may be private in character and private in use—If the pathway is meant to connect somebody else's property, thus becoming part of a network of roads or paths, however short or insignificant its extent and reach may be, it is to sub-serve the public purpose of providing access to and fro—Once a property assumes the character of a road or a path, having the potential of being a public utility, it ceases to have any exclusivity—Inclusion of such road in the Panchayat Asset Register, held to be proper.*
Madam Beevi v. Secretary, Athirampuzha Grama Panchayat I.L.R. 2015 (2) Kerala . . 976
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)**—Section 232—*Licence for carrying on dangerous and offensive trade within the Panchayat—Section 232 only enables the Grama Panchayat to act on the notification of the Government in terms of Rule 3, and then issue notification specifying the area within limits of the Panchayat where any specific trade or activity is to be carried on only with prior permission or licence—Unless the Panchayat issues such a notification pursuant to notification under Rule 3, it cannot insist that licence should be taken—Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades and Factories) Rules, 1996—Rule 3.*
Poulose P.P. v. Kappur Grama Panchayath I.L.R. 2015 (2) Kerala .. 381
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)**—Section 233 (4)—*Permission for construction of factories—No Objection Certificate of District Medical Officer cannot be insisted by the Panchayat if the applicant for renewal of licence produces recommendation of authorised officer of Industries Department or of the Pollution Control Board to the effect that the industry would not cause pollution.*
Wilson, K. P. v. Kozhinjampara Grama Panchayat I.L.R. 2015 (2) Kerala . . 884
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)**—Section 236 (3)—*Deemed licence—Panchayat cannot refuse physical licence to deemed licensee, on the basis of objection of people in the locality, by invoking its powers under Section 233 (3)—Objectors can invoke the remedy under Section 276 against grant of licence—Section 233 (3).*
Siyad Hassan v. Marady Grama Panchayat I.L.R. 2015 (2) Kerala . . 190
- Panchayat Raj (Conduct of Cases and Payment of Fees to Legal Advisors) Rules, 2003 (Kerala)**—Rule 5—*The provisions of the Panchayat Raj (Conduct of Cases and Payment of Fees to Legal Advisors) Rules, 2003, would apply only if a person is engaged as the Counsel or Legal Advisor by the Panchayat, for the purpose of conducting its cases—An Advocate, engaged by the Panchayat as an Enquiry Officer in a domestic enquiry, cannot be said to have participated in any judicial proceeding.*
Sreekumar M. G. v. State of Kerala I.L.R. 2015 (2) Kerala .. 479
- Partnership Act, 1932 (Central Act 9 of 1932)**—Section 69(3)—*Disability under sub-sections (1), (2) and (3) of Section 69 due to non-registration of a firm would not apply to a*

- dissolved firm—The intention of the legislature was to inflict disability for non-registration only during subsistence of the partnership.*
Abdul Rauf v. Mohammed Hassan I.L.R. 2015 (2) Kerala .. 921
- Passports Act, 1967 (Central Act 15 of 1967)—Section 6—Refusal of passport—Child born in India is of Indian origin until that person abandons the domicile of origin—Such a child is entitled to receive Indian Passport.**
Sindhu George v. Passport Officer I.L.R. 2015 (2) Kerala .. 629
- Penal Code, 1860 (Central Act 45 of 1860)—Section 71—When there are several acts which constitute an offence and any one of the said act will independently constitute an offence and separate sentences have been provided for each of the offence, unless a specific provision is provided under the Abkari Act for consolidation of such sentence, it is not proper to invoke Section 71 I.P.C. in such cases, especially when each offence have been independently defined and each act has been found to be an independent offence for which independent punishment has been provided as well—Abkari Act, 1077 M.E. (Kerala Act 1 of 1077 M.E.)—Section 55(a), (b) and (g) and Section 8(1) and (2).**
Gopalakrishnan v. State of Kerala I.L.R. 2015 (2) Kerala .. 395
- Penal Code, 1860 (Central Act 45 of 1860)—Section 292—Obscenity vis-a-vis poetic licence—The concept of obscenity usually differs from country to country depending on the standards of morality of contemporary society in different countries—In India the Contemporary Community Standards Test has been accepted as the parameter for deciding as to whether a published material is obscene or not—Contemporary Community Standards Test would vary from time to time, for the perception, views, ideas and ideals can never remain static—When the name of Mahatma Gandhi is alluded or used as a symbol, the Contemporary Community Standards Test becomes applicable with more vigour, in a grater degree and in an accentuated manner.**
Devidas Ramachandra Tuljapurkar v. State of Maharashtra (S.C.) I.L.R. 2015 (2) Kerala ..659
- Penal Code, 1860 (Central Act 45 of 1860)—Section 338—In order to make a doctor liable for criminal prosecution, it must be established by evidence that the doctor was reckless and culpably negligent in discharging his duties—Merely because there was some negligence or that the patient did not respond to the treatment given by the Doctor is not sufficient to make a Doctor liable for criminal prosecution.**
Dr. K. J. Marykutty v. State of Kerala I.L.R. 2015 (2) Kerala .. 560
- Penal Code, 1860 (Central Act 45 of 1860)—Sections 465, 468, 471 and 477 (A)—Once it is proved by the prosecution that the accused had prepared the bills showing some fictitious entries and that amounts were encashed based on the said fictitious entries, then the burden shifts on the accused to prove that it was a bona fide mistake and there was no willful or dishonest act on his part.**
Seeraveetil Muhammed Kunhi v. State of Kerala I.L.R. 2015 (2) Kerala .. 278
- Penal Code, 1860 (Central Act 45 of 1860)—Section 494—Offence under Section 494 will be attracted only when the second marriage of the person is void on account of the existence of first marriage—Where the second marriage is permissible, as in the case of Muslims, Section 494 is not attracted—Section 494 does not discriminate between offenders belonging to different religions.**
Venugopal K. v. Union of India I.L.R. 2015 (2) Kerala .. 197

- Practise and procedure**—*Special list—Just because case is included in the special list, there should not be undue haste in disposing of duly filed interlocutory applications—Order should not be passed in violation of the principles of natural justice—Speedy disposal should not be at the cost of justice.*
 Santhosh, K. R. v. Azeez I.L.R. 2015 (2) Kerala . . . 318
- Precedents**—*'Sub silentio'—Explained—When the particular point of law involved in the decision is not perceived by the Court or present to its mind.*
 Poulose P.P. v. Kappur Grama Panchayath I.L.R. 2015 (2) Kerala .. 381
- Protection of Women from Domestic Violence Act, 2005 (Central Act 43 of 2005)**—*Section 2 (s)—Shared household—Going by the plain words of the expression 'shared household', a residence belonging to the mother-in-law or father-in-law cannot be a 'shared household'.*
 Hashir, A. R. v. Shima I.L.R. 2015 (2) Kerala .. 855
- Protection of Women from Domestic Violence Act, 2005 (Central Act 43 of 2005)**—*Section 2 (s)—Shared household—The ingredients to constitute the shared household, enumerated.*
 Hashir, A. R. v. Shima I.L.R. 2015 (2) Kerala .. 855
- Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (Central Act 51 of 1993)**—*Sections 19 (25) and 25—The Debts Recovery Tribunal is well within its powers to pass an order permitting partial redemption of a property—The Debts Recovery Tribunal has powers to make such orders and give such direction as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.*
 Mathai P.T. v. The South Indian Bank Ltd. I.L.R. 2015 (2) Kerala .. 814
- Representation of the People Act, 1951 (Central Act 2 of 1951)**—*Section 83(1)— Contents of election petition—It is essential for election petitioner to set out with exactitude and precision, the type of assistance and the manner in which assistance is obtained or procured from each official by the returned candidate or his agent, as also the material facts regarding the time, the date and the place of the assistance, in the election petition— Mere, repetition of the language of the statutory provisions in the pleadings will not constitute material facts within the meaning of Section 83 (1) of the Act.*
 Siddiqui, T. v. Karunakaran, P. I.L.R. 2015 (2) Kerala . . . 937
- Service**—*Compassionate appointment—Applicant under the compassionate appointment scheme has no vested right to insist that his application should be considered on the basis of the scheme which was in force as on the date of the application—The employer has the right to modify the scheme for compassionate appointment at any point of time, provided it is in consonance with Articles 14 and 16 of the Constitution of India— Application for compassionate appointment should be considered in accordance with the scheme in force as on the date of consideration.*
 Chief General Manager, BSNL v. Rajesh, S. (F. B.) I.L.R. 2015 (2) Kerala . . . 1
- Service**—*Employer can terminate the recruitment process after the interview is notified, if there are valid reasons for doing so, such as interdiction by the Government.*
 ANERT v. Gokul P. G. I.L.R. 2015 (2) Kerala . . . 124

- Service Rules, 1959 (Kerala)**—Part 3, Rules 10 and 11—*Qualifying service— Employees on daily wages, subsequently regularised in service of KSRTC— Such employees are entitled to reckon their service prior to regularisation as qualifying service for the purpose of pension, irrespective of whether they were recruited through Public Service Commission or not—Benefit of Long Term Settlement cannot be conferred only on employees who were recruited through Public Service Commission—Industrial Disputes Act, 1947 (Central Act 14 of 1947)—Section 18.*
Francis, K. L. v. K.S.R.T.C. (L.B.) I.L.R. 2015 (2) Kerala . . . 91
- Specific Relief Act, 1963 (Central Act 47 of 1963)**—Section 6—*In a suit filed under Section 6 for putting the plaintiff in possession, no relief other than the one for putting the plaintiff in possession of the property can be claimed.*
Ponnappan v. Parukutty I.L.R. 2015 (2) Kerala . . . 296
- Specific Relief Act, 1963 (Central Act 47 of 1963)**—Section 16(c)—*'Readiness' and 'Willingness'—The distinction between 'readiness' and 'willingness' is that the former refers to the financial capacity while the latter refers to the conduct of the plaintiff seeking specific performance—Unless the plaintiff has averred and proved readiness and willingness to perform his part of the contract, the Court will not grant specific performance of the contract.*
Vinodan v. Sunil Kumar I.L.R. 2015 (2) Kerala . . . 605
- Stamp Act, 1959 (Kerala Act 17 of 1959)**—Section 45B—*If any material is brought before the Registrar which gives him reason to believe that the property is undervalued, he can initiate proceedings for undervaluation even if the declared price is above the fair value fixed by Government.*
M/s Pooma Convention Centre (P) Ltd. v. District Registrar (General) I.L.R.2015 (2) Kerala . . . 370
- Standards of Weights and Measures Act, 1976 (Central Act 60 of 1976)**—Section 39—*If the particulars mentioned in the packet are sufficient for the consumer to contact the manufacturer, the purpose of the Rule has been complied with, since that was the intention of the legislature as well—Standards of Weights and Measures (Enforcement) Act, 1985 (Central Act 54 of 1985)—Section 33 and Standards of Weights and Measures (Packaged Commodities) Rules, 1977 (Central) Rules 6 and 6 (I) (IA).*
Shantanu Khosle (Manufacturer) v. Inspector, Legal Metrology I.L.R. 2015 (2) Kerala . . . 892
- State Bank of Travancore Employees Provident Fund Regulation, 1969**—Regulation 20—*On death of member of the Provident Fund Scheme, the amount standing to his credit is to be paid to members of his family—Members of the family need not produce Succession Certificate, Probate or Letters of Administration—Bank has to pay interest if the amount is withheld illegally by it.*
Achamma Koshy v. State Bank of Travancore I.L.R. 2015 (2) Kerala . . . 332
- Toddy Workers Welfare Fund Act, 1969 (Kerala Act 22 of 1969)**—Section 2(c)—*The principal liability to pay the welfare fund of the employees rest with the licensee—Joint and several liability can be cast on any other person along with the licensee if there is evidence to show that such other person was also in management of the shop—The self-serving statements made by the union leaders or workers themselves cannot substitute the tangible evidence required to mulct such liability on a third party—Abkari Shops Disposal Rules, 2002.*
Shoukath C. K. v. Welfare Fund Inspector No. II I.L.R. 2015 (2) Kerala . . . 985

- Town Planning Act, 1960 (Kerala Act 3 of 1960)**—*Structural Plan of Kochi—Property lying contiguously but in two different villages and separated by a canal— Corporation permitted construction of culvert across the canal—If in similar cases Corporation has treated properties on either side of the canal and connected to each other by culvert as contiguous, there is no reason why similar treatment should be denied to similar land owner—Constitution of India—Article 14.*
M/s Muthoot Finance Ltd. v. Corporation of Cochin I.L.R. 2015(2) Kerala .. 646
- Transfer of Property Act, 1882 (Central Act 4 of 1882)**—*Section 60—The rule of indivisibility of a mortgage can be altered by an agreement entered into by all the mortgagors and mortgagees together and such an agreement or bargain can either be expressed or implied—Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Central Act 52 of 2002)—Section 13.*
Mathai P. T. v. The South Indian Bank Ltd. I.L.R. 2015 (2) Kerala .. 814
- Value Added Tax Act, 2003 (Kerala Act 30 of 2004)**—*Section 8(f)—When an assessee opts to pay tax at compounded rates and such option is accepted by the authorities, either expressly through an order or impliedly through their conduct, there comes into existence a contract from which neither side can resile—The taxing authorities cannot thereafter proceed with a demand for differential tax based on the amended provisions introduced by the Finance Act—The Finance Act, 2011 contained a validation clause that made it clear that the passage of the Finance Act would not effect any action taken in terms of the provisions of the Kerala Finance Bill— Finance Act, 2011 (Kerala Act 16 of 2011)—Section 12.*
Malabar Gold v. Assistant Commissioner, Commercial Taxes I.L.R. 2015 (2) Kerala . . 964
- Wakf Act, 1995 (Central Act 43 of 1995)**—*The Wakf Board has no jurisdiction to recognise any building as a Mosque.*
Islahul Muslimeen Jama-ath v. Karunagappally Grama Panchayat I.L.R. 2015 (2) Kerala .. 635
- Wealth Tax Act, 1957 (Central Act 27 of 1957)**—*Section 34 A (4 B) (a)— An assessee is entitled to interest on refund of wealth tax in respect of the self assessment returns filed by the assessee—It cannot be said that the liability to pay interest would arise only in a case where a notice of demand is issued under Section 30 of the Act—Sub-section 4 (b) covers every situation where a refund becomes necessary under the provisions of the Wealth Tax Act and in such cases, simple interest as provided therein would be payable.*
Commissioner of Wealth Tax v. Nazim Zacheria I.L.R. 2015 (2) Kerala . . 143
- Workmen's Compensation Act, 1923 (Central Act 8 of 1923)**—*Section 4 (1) (d)— Calculation of compensation taking the monthly wages of the workman to be ₹ 4,000 as provided in Explanation II to Sections 4 (1) (a) and (b) cannot be made applicable to the compensation payable under Section 4 (1) (d).*
M/s New India Assurance Co. Ltd. v. Muhammed Ali I.L.R. 2015 (2) Kerala . . 290