



INDIAN LAW REPORTS

KERALA SERIES

INDEX TO I.L.R. 2010 (1) Kerala

NOMINAL INDEX

		Pages
Abdulla,K.M.	v. Secretary	.. 897
Abdul Azeez	v. State of Kerala	.. 539
Abdul Jabbar, P.M.	v. K.S.E.B.	.. 536
Abdurahiman	v. Khairunneesa	.. 830
Abraham Thomson	v. Kunjamma Jeevamony	.. 133
Ahammed Kunju,M.H.	v. State of Kerala	.. 210
Allahabad Bank	v. Ley Bros	.. 679
Amose, D.	v. C.Selvaraj	.. 491
Anantha Pai	v. Gopala Pai	.. 715
Amuunma Thomas	v. State of Kerala	.. 888
Anilkumar,S.	v. Secretary, R.T. A.	.. 722
A. R. Nagar Service Co-operativeBank Ltd.	v. State of Kerala	.. 32
Asha Manju, K. M.	v. K.P.S.C.	.. 675
Asok Chacko Thomas	v. M.G. University	.. 55
Babu,M.	v. K.S.E.B.	.. 384
Babu, M.	v. State of Kerala	.. 753
Babu P. Benedict	v. Principal MACT	.. 216
Balan,N.	v. Devaki.R.Nayar	.. 653
BBP Properties (P) Ltd.	v. Chengamanadu Grama Panchayat	.. 250
Betsy	v. Nil	..46
Biju	v. State of Kerala	.. 190
Biju Eappen	v. State of Kerala	.. 259
Chandrika, A. K.	v. State of Kerala	.. 95
Chirayinkeezhu A. Babu Commissioner of Income Tax	v. Delimitation Commission v. M/s Travancore TitaniumProducts Ltd.	.. 852 .. 485
Derrick Joy	v. Director, Technical Education	.. 391
Dr. Dineshan Kunimal	v. Government of Kerala	.. 743
Dr. Preceline George @ Antony Preceline	v. State of Kerala	.. 663
Dr. P. Venugopalan Nair	v. Mohammed Kunhi	.. 881
Dr. Surendran, V.	v. State of Kerala	.. 311
Dr. Vijayalakshmi Amma	v. Bindu,V.	.. 60

Eliyamma Kuriakose	v. Plantation Corporation	.. 265
G.C.D.A.	v. Shanavas, A.M.	.. 405
George Joseph	v. P. K. Ramachandran	.. 227
George Muthoot	v. State of Kerala	..441
G-4S Security Services (I) Pvt. Ltd.	v. Satheeshkumar	.. 316
High Court of Kerala	v. Mohammed Faisal	.. 685
Ismail, S. P.	v. Sudhakara Shenoy, K	.. 281
Jacob Kuruvila	v. Merly Jacob	.. 732
Jiji Vijayan	v. K.P.S.C.	.. 472
John Arthur Henshaw	v. Sulochana	.. 290
Johnson, T.T.	v. M. K. Sebastian	.. 516
Johny	v. State of Kerala	.. 637
Kalesh	v. Sudheer	.. 748
Kerala Muslim Jama-ath Council	v. State of Kerala	.. 458
Kerala State Co-operative Bank Ltd.	v. Kerala State Fanners Debt Relief Commission	.. 27
KrishnanNair, S.	v. S. Jayakumari	.. 431
Krishna Preetha, M.	v. Dr. Jayan Moorkkanatt	.. 764
K.S.E.B.	v. Dr. S.VidyaPrakash	.. 323
Kunhibi, P. P.	v. Sherin,P.V.	.. 933
Kutaguptan, K.	v. Canara Bank	.. 464
Lee,V.S.	v. State of Kerala	.. 606
Mahalingam, R.	v. State Co-operative Election Commission	.. 41
Manager, Lahai Estate	v. President	.. 563
Manoharan, S.	v. C.I. of Police	.. 885
Manoj, C. V.	v. Vidhya	.. 75
Marymol, T. P.	v. Director General, CISF	.. 126
Mathai, M. J.	v. Thressiamma, P. E	.. 569
Mather Projects (P) Ltd.	v. Government of Kerala	.. 6
Mini, A. K.	v. Jwala Sajikumar	.. 909
Mohanan	v. State of Kerala	.. 621
Mony	v. State of Kerala	.. 234
M/s Bhaskar & Co.	v. Commissioner of Income Tax	.. 254
M/s Indian Airlines	v. Kurian Abraham	.. 576
M/s Joy Alukkas Traders	v. State of Kerala	.. 699
M/s Sundaram Finance Ltd.	v. State of Kerala	.. 201
MuraleedharanNair, K.	v. State of Kerala	.. 13
Narayanan Namboodiri	v. Saraswathy	.. 162
Narikkundil Narayanan	v. Kileri Manoharan	.. 93
Neena,N.K.	v. K.P.S.C.	.. 927
Noble Kuries	v. Sebastian	.. 149
Pankajakshi Amma	v. GourikuttyAmma	.. 157

Prabhu,L.K.	v. Official Liquidator	.. 874
Praveen,A.	v. High Court of Kerala	.. 361
Punjab National Bank	v. Prabhakaran, K.	.. 525
Pushpam Simon	v. Karumkulam Grama Panchayath	.. 167
Rahumath, S.	v. K.P.S.C.	.. 1
Rajamma Joseph	v. Binu Prasad	.. 364
Rajan, K. S.	v. Pravith	.. 284
Ramesh	v. State of Kerala	.. 727
Rehabilitation Plantations Ltd.	v. P. S. Ansary	.. 350
Remanij C.	v. K.P.S.C.	.. 792
Samul Philipose	v. Koshy Thomas	.. 270
Sam Zacharias, D.	v. State of Kerala	.. 345
Sangeeta, G.P.	v. State of Kerala	.. 421
Saumya Ann Thomas	v. Union of India	.. 805
Secretary to Government, LSGD	v. P.K. Nazar	.. 521
Selvam,M.	v. State of Kerala	.. 506
ShahanSha, A.	v. State of Kerala	.. 296
Shibu	v. State of Kerala	.. 594
Shino Paul	v. State of Kerala	.. 584
Shruthi, P.	v. State of Kerala	.. 103
Shyfa, V.	v. Secretary to Government	.. 781
Sita Dayanandan	v. State of Kerala	.. 481
Soofiya Madani	v. Varghese, P. M.	.. 140
State of Kerala	v. Purushothaman, A. T.	.. 262
Subaida Ashraf	v. District General Manager	.. 181
Sub Inspector of Police	v. Girija,S.	.. 513
Sudheesh Babu, T. P.	v. Sherly, P.	.. 24
Sugunan, M. S.	v. Kunnamkulam Municipality	.. 559
Sukumaran	v. State of Kerala	.. 544
Sukumaran, P. G.	v. Power Grid Corporation	.. 825
Summer Sand Hill Resort & Ayurvedic Centre	v. State Bank of India	.. 468
Sunny, C. K.	v. State of Kerala	.. 511
Surendran	v. District Collector	.. 651
Surendran, P.	v. State of Kerala	.. 372
Thankamma Joseph	v. State of Kerala	.. 378
Thavakkara Koolatfa Valappil Sreedharan	v. Chalakkadan Kodichi Nalini	.. 410
Thirumali Kumar	v. State of Kerala	.. 497
Thomas, A. V.	v. Benny Thomas	.. 777
Thomas John Muthoot	v. State of Kerala	.. 708
Unnikrishnan, K. M.	v. Manager	.. 193
Usman, P. K.	v. Corporation of Calicut	.. 477
Vamadevan, N.	v. SNDP	.. 332
Vasanthakumari	v. Raichal Banitta	.. 398

Vasundhara, G	v. Dr. Sallas Benjamin	.. 531
Venugopal	v. State of Kerala	.. 867
Vijayan Menon	v. Ansal Builders Ltd.	.. 552
Vijayan, P.	v. State of Kerala (S.C.)	.. 597

INDEX TO JOURNALS, NOTIFICATIONS and SPEECHES

Journal

Law and Reality—An indepth analysis of Section 11 (2) (c) of the Kerala Buildings (Lease and Rent Control) Act, 1965	.. i - vi
The Centurion Code.....	.. vii - x

Notification

The Kerala Land Conservancy (Amendment) Act, 2009	.. ix - xii
The Kerala Municipality Building (Amendment) Rules, 2009	.. xiii - xxxii
The Unorganised Workers' Social Security Act, 2008	.. i - viii

Speech

Full Court Reference held in the High Court of Kerala on 22nd January, 2010 on the occasion of retirement of Honourable Mr. Justice S. R. Bannurmath, Chief Justice, High Court of Kerala	.. i - x
Full Court Reference held in the High Court of Kerala on 5th January, 2010 on the occasion of farewell to Acting Chief Justice Mr. Kurian Joseph, on his appointment as Chief Justice of the High Court of Himachal Pradesh.	.. xi – xxii
Full Court Reference held in the High Court of Kerala on 18th March, 2010 to welcome the new Chief Justice of Kerala, Hon'ble Mr. Justice Jasti Chelameswar	.. xxiii – xxx

INDEX TO ACTS AND RULES (Central & Kerala)

ACTS

Central

1860—Act 45 of 1860—Penal Code		
Section 498A	<i>See</i>	..234
Section 300	<i>See</i>	.. 637
Sections 302 and 304, Part II	<i>See</i>	.. 621

1869—Act 4 of 1869—Divorce Act		
Section 10A	<i>See</i>	.. 805
Section 10A(1)	<i>See</i>	.. 805
1870—Act 7 of 1870—Court Fees Act	<i>See</i>	..290
1872—Act 1 of 1872—Evidence Act		
Section 32(l)	<i>See</i>	..234
1881—Act 26 of 1881—Negotiable Instruments Act		
Section 142(b)	<i>See</i>	..777
1882—Act 5 of 1882—Easements Act		
Section 15	<i>See</i>	..157
1882—Act 4 of 1882—Transfer of Property Act		
Section 58(2)	<i>See</i>	.. 653
Section 52	<i>See</i>	.. 715
Section 58 (f)	<i>See</i>	.. 679
1885—Act 13 of 1885—Telegraph Act		
Section 7B	<i>See</i>	.. 181
Section 10(d)	<i>See</i>	.. 825
Section 16	<i>See</i>	.. 825
1894—Act 1 of 1894—Land Acquisition Act		
Section 28A	<i>See</i>	..888
1908—Act 5 of 1908—Code of Civil Procedure		
Order XXI, Rule 10	<i>See</i>	.. 93
Section 60 (l)(c)	<i>See</i>	.. 398
Order 33, Rule 1, Explanation	<i>See</i>	..364
Order IX, Rule 13	<i>See</i>	- 468
Order XLI, Rule 22 (4)	<i>See</i>	.. 569
1932—Act 9 of 1932—Partnership Act		
Section 59	<i>See</i>	.. 149
Sections 60 to 63	<i>See</i>	.. 149
Section 69(2)	<i>See</i>	.. 149
1934—Act 2 of 1934—Reserve Bank of India Act		
Chapter III B	<i>See</i>	.. 201
1939—Act 8 of 1939—Dissolution of Muslim Marriages Act		
Section 2 (viii)(f)	<i>See</i>	..830

1947—Act 14 of 1947—Industrial Disputes Act		
Section 33C(2)	<i>See</i>	.. 316
Section 11A	<i>See</i>	.. 481
Section 11A	<i>See</i>	.. 563
1955—Act 25 of 1955—Hindu Marriage Act		
Section 2 (1).(c)	<i>See</i>	.. 46
Sections 12 and 24	<i>See</i>	..24
Section 13	<i>See</i>	..75
1956—Act 1 of 1956—Companies Act -		
Section 442 (2)	<i>See</i>	.. 332
Section 543	<i>See</i>	.. 874
1956—Act 3 of 1956—University Grants Commission Act		
Sections 2 (f) and 22	<i>See</i>	.. 55
1961—Act 43 of 1961—Income Tax Act		
Chapter XVI, Section 184	<i>See</i>	.. 254
Section 37(l)	<i>See</i>	.. 485
1963—Act 36 of 1963—Limitation Act		
Section 23	<i>See</i>	..350
Section 23 and Article 55	<i>See</i>	.. 350
1972—Act 69 of 1972—Carriage by Air Act		
Section 25(l), Rules 22 and 25 of Schedule I	<i>See</i>	.. 576
1972—Act 53 of 1972—Wildlife (Protection) Act		
Sections 2,9,39 and 57	<i>See</i>	..727
1973—Act 2 of 1974—Code of Criminal Procedure		
Section 438	<i>See</i>	.. 140
Section 340	<i>See</i>	.. 216
Sections 384,385 and 386	<i>See</i>	.. 270
Section 482	<i>See</i>	.. 259
Section 82(1) and 82(4)	<i>See</i>	.. 497
Section 378 (4)	<i>See</i>	..516
Section 167 (2) (a) (i)	<i>See</i>	.. 584
Section 309 (2), Explanation I	<i>See</i>	.. 584
Section 227	<i>See</i>	..597
1984—Act 66 of 1984—Family Courts Act		
Section 18	<i>See</i>	.. 162

1987—Act 39 of 1987—Legal Services Authorities Act		
Section 21	<i>See</i>	.. 290
1988—Act 45 of 1988—Benami Transactions Prohibitions Act		
Sections (2)	<i>See</i>	.. 431
1988—Act 59 of 1988—Motor Vehicles Act		
Section 147	<i>See</i>	.. 284
Section 2(30)	<i>See</i>	.. 722
Section 168	<i>See</i>	.. 748
Section 169	<i>See</i>	.. 748
1993—Act 51 of 1993—Recovery of Debts due to Banks and Financial Institutions Act		
Section 19(22)	<i>See</i>	..464
2002—Act 33 of 2002—Delimitation Act		
Section 10(2)	<i>See</i>	..852
2005—Act 22 of 2005—Right to Information Act		
Section 2(d)	<i>See</i>	..606
2005—Act 43 of 2005—Protection of Women from Domestic Violence Act		
Sections 2(q) and 12	<i>See</i>	.. 60
Sections 12,18,19,20,21,22 and 23	<i>See</i>	.. 60
Sections 12 and 23	<i>See</i>	.. 663
Kerala		
1092—Act 2 of 1092—Christian Succession Act		
Section 30	<i>See</i>	.. 133
1958—Act 35 of 1958—Money Lenders Act		
Section 2(7)	<i>See</i>	.. 201
Section2(7)(f)	<i>See</i>	.. 201
1963—Act 15 of 1963—General Sales Tax Act		
Sections 39 (3) and 53	<i>See</i>	.. 511
Sections 5(1) and 7(1) (a)	<i>See</i>	..699
Section35	<i>See</i>	.. 699
1963—Act 1 of 1964—Land Reforms Act		
Section 125 (3)	<i>See</i>	.. 552

1965—Act 2 of 1965—Buildings (Lease and Rent Control) Act		
Section 12	<i>See</i>	.. 281
Section 11 (12)	<i>See</i>	.. 410
Section 2(1)	<i>See</i>	.. 933
Section 11 (3)	<i>See</i>	.. 881
1968—Act 15 of 1968—Revenue Recovery Act		
Section 44	<i>See</i>	..378
1969—Act 21 of 1969—Co-operative Societies Act		
Section 69 (2)(d)(As amended by Act 1 of 2000)	<i>See</i>	.. 32
1975—Act 7 of 1976—Building Tax Act		
Sections 5 A and 9	<i>See</i>	..651
1994—Act 20 of 1994—Municipalities Act		
Sections 216 and 472	<i>See</i>	.. 559
Section 234	<i>See</i>	.. 708
1994—Act 13 of 1994—Panchayat Raj Act		
Chapter XVIII	<i>See</i>	.. 6
Sections 35(k) and 37(2)	<i>See</i>	..167
Section 35(h)	<i>See</i>	.. 167
Sections 36(1) and (3)	<i>See</i>	.. 167
Section 52(1 A)	<i>See</i>	..227
1996—Act 11 of 1996—Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act		
Section 24	<i>See</i>	.. 909
2001—Act 18 of 2001—Protection of River Banks and Regulation of Removal of Sand Act		
Section 24	<i>See</i>	.. 190
Sections 12, 20 and 25	<i>See ..</i>	.. 539
2005—Act 46 of 2005—Promotion of Tree Growth in Non-Forest Area Act		
Section 6	<i>See</i>	.. 544
2006—Act 1 of 2007—Farmers Debt Relief Commission Act		
Section 2(vii)	<i>See</i>	..27
Sections 5,9 and 10	<i>See</i>	..27

2007—Act 34 of 2007—Anti-social Activities (Prevention) Act		
Sections 2 (j),(t),(o),(p) and 3	<i>See</i>	.. 103
Section 2 (j),(o),(p) and (t)	<i>See</i>	.. 103
Section3(3)	<i>See</i>	.. 103
Section 7(2)	<i>See</i>	.. 103
Section 15(1) and(2)	<i>See</i>	.. 594
Section3	<i>See</i>	.. 753
RULES		
Central		
2008—Disaster Management (National Disaster Response Force) Rules		
Rules 3 and 4	<i>See</i>	.. 126
Kerala		
1953—Foreign Liquor Rules		
Rule 13(1)	<i>See</i>	.. 372
1958—Registration Rules		
Rule 67	<i>See</i>	.. 506
1958—State and Subordinate Services Rules		
Part II, Rule 10(b)(iii)	<i>See</i>	.. 1
Part II, Rule 3 (c)	<i>See</i>	.. 384
Part II, Rule 9	<i>See</i>	.. 513
Part I, Rule 17(2)	<i>See</i>	.. 792
Part II, Rule 27(c)	<i>See</i>	.. 743
1959—Education Rules		
Chapter VI, Rules 5(l) and 10B	<i>See</i>	.. 95
Chapter XIVA, Rule 51B	<i>See</i>	.. 193
Chapter XIVA	<i>See</i>	.. 781
1959—Service Rules		
Part III, Rule 3, Note 3	<i>See</i>	.. 262
Part I, Chapter XI	<i>See</i>	.. 311
Part III, Rule 14E	<i>See</i>	.. 536
Part III, Rule 56	<i>See</i>	.. 867
1969—Co-operative Societies Rules		
Rule 35A	<i>See</i>	.. 41
Rule 182 B	<i>See</i>	.. 345
1971—High Court Rules		
Rule 159 (2)	<i>See</i>	.. 266
Rule 9	<i>See</i>	.. 516

1976—Public Service Commission Rules of Procedure		
Rule 11(5)	<i>See</i>	.. 675
1977—Public Services (Date for Determination of Age for Eligibility for Appointment) Rules		
Rule 2	<i>See</i>	.. 472
1990—Regulations Relating to Conditions of Supply of Electrical Energy ;		
Clause 1(n)	<i>See</i>	.. 323
Clause 42 (d)	<i>See</i>	.. 323
1996—Panchayat Raj (Issue of Licenses to Dangerous and Offensive Trades and Factories) Rules Rule 12(4)	<i>See</i>	
.. 210		
1996—Panchayat Raj (Manner of Service of Notices) Rules		
Rule 3	<i>See</i>	.. 250
1999—Municipality Building Rules		
Rule 3 (iii)	<i>See</i> .. 6	
Rule 7	<i>See</i>	.. 521
Rule 21	<i>See</i>	.. 477
Rule 15A(10)	<i>See</i>	.. 897

ORDER

Kerala

1966—Rationing Order		
Clause 45(1)	<i>See</i>	.. 491

REGULATION

Central

2009—All India Council for Technical Education (Prevention and Prohibition of Ragging in Technical Institutions, Universities Including Deemed to be Universities Imparting Technical Education) Regulations	<i>See</i>	.. 391
--	------------	--------

SUBJECT INDEX

- All India Council for Technical Education (Prevention and Prohibition of Ragging in Technical Institutions, Universities Including Deemed to be Universities Imparting Technical Education) Regulations, 2009 (Central)**—*Students found to have indulged in ragging their juniors can be debarred for a period ranging from 1 to 4 semesters—The punishment need not be based on conviction of the students by a criminal court for offences under the Prohibition of Ragging Act, 1998.*
 Derrick Joy v. Director, Technical Education
 I.L.R. 2010 (1) Kerala .. 391
- Anti-social Activities (Prevention) Act, 2007 (Kerala Act 34 of 2007)**
 —*Section 7(2)—Consideration of the representation by Government cannot be casual or mechanical—Real and proper consideration must be given to the representation—Though it is not necessary to pass a speaking order, consideration of the representation must be self evident from the order— Constitution of India—Article 22 (5).*
 Shruthi, P. v. State of Kerala I.L.R. 2010 (1) Kerala .. 103
- Anti-social Activities (Prevention) Act, 2007 (Kerala Act 34 of 2007)**
 —*Sections 2 (j), (t), (o), (p) & 3—Prosecution under Section 1601.P.C. cannot be taken into account for bringing a person within the sweep of a rowdy, goonda, known goonda or known rowdy under Sections 2(j), (t), (o), or (p) of KAAPA.*
 Shruthi, P. v. State of Kerala I.L.R. 2010(1) Kerala .. 103
- Anti-social Activities (Prevention) Act, 2007 (Kerala Act 34 of 2007)**
 —*Section 2 (j), (o), (p) and ft)—To constitute anti-social activity under Section 2 (a) and to come within the purview of the descriptive former part of the definition of goonda in Section 2 (j), the acts alleged must threaten maintenance of public order—The definitions of the expressions in 2 (j) (inclusive latter part) and 2 (o) as also 2 ft) and 2 (p) do not at all demand that the offences referred to therein must also be instances of organised crime or that they must threaten public order.*
 Shruthi, P. v. State of Kerala I.L.R. 2010(1) Kerala .. 103
- Anti-social Activities (Prevention) Act, 2007(Kerala Act 34 of 2007)**
 —*Section 3(3)—An order of approval by the Government under Section 3(3) should be passed after consideration of all the*

- materials forwarded to the Government by its delegate—
The District Magistrate, who passed the order— It is not
obligatory for the Government to consider the representation
submitted by the detenu before passing the order of approval.*
Shruthi, P. v. State of Kerala I.L.R. 2010 (1) Kerala .. 103
- Anti-Social Activities (Prevention) Act, 2007 (Kerala Act 34 of 2007)**
*—Section 15(1) and (2)—Though the expression "appeal" is not
employed in Section 15(2) of the KAAPA, the aggrieved person
can challenge an order of restraint passed under Section 15(1),
before a duly constituted Advisory Board.*
Shibu v. State of Kerala I.L.R. 2010 (1) Kerala .. 594
- Anti-social Activities (Prevention) Act, 2007 (Kerala Act 34 of 2007)**
*—Section 3— Delay in executing a preventive detention order
does not fetter the right of the detaining authority to pass a
subsequent order taking into consideration commission of another
offence by the detenu, during the pendency of the first detention
order—While passing the second order, there should be proper
application of mind and it should be considered as to whether
under the new situation and changed circumstance, the order of
detention deserves to be executed.*
Babu.M. v. State of Kerala I.L.R. 2010(1) Kerala .. 753
- Anti-social Activities (Prevention) Act, 2007 (Kerala Act 34 of 2007)**
*—Section 3—Detention order can be passed against a detenu who
is in custody, when there is a real possibility of the detenu being
released on bail.*
Babu, M. v. State of Kerala I.L.R. 2010 (1) Kerala .. 753
- Benami Transactions Prohibitions Act, 1988 (Central Act 45 of
1988)***—Section 3(2)—In order to prove that the ostensible owner
is not the real owner, there should be specific pleading supported
by clear evidence—Incongruities in the written statement filed by
the ostensible owner, the fact that the original document was with
the husband and the fact that the husband was in possession of the
property are not sufficient to conclude that the wife (ostensible
owner) is not the real owner.*
Krishnan Nair, S. v. S.Jayakumari I.L.R. 2010(1) Kerala .. 431
- Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)**
*—Section 12—Section 12(1) to (3) will strictly apply only in cases
where the original proceeding is for eviction of the tenant under
Section II.*
Ismail, S.P. v. Sudhakara Shenoy, K. I.L.R.2010(1)Kerala .. 281

- Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—*Section 11(12)—Claim for restoration of possession by the tenant— Building rendered totally unfit for habitation on account of partial demolition by the landlord—Landlord can be directed to pay to the tenant, compensation large enough to enable the tenant to pay rent for a similar building from which he was evicted.*
Thavakkara Koolath Valappil Sreedharan v. Chalakkadan Kodichi Nalini I.L.R.2010(1)Kerala .. 410
- Buildings (Lease & Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—*Section 2 (1)— Where lessor has let out a large extent of land with a small building therein, with the intention to let out land and building together, such arrangement is lease of building with appurtenant land and the lessee is entitled to protection of Rent Control Act—If the intention is to let out a large extent of land, even if there are certain small structures over the land, such an arrangement is lease of land and the lessee is not entitled to protection of Rent Control Act—Court has to find out the intention of the lessor before deciding the applicability of the Rent Control Act.*
Kunhibi,P.P. v. Sherin, P.V. I.L.R.2010(1)Kerala .. 933
- Buildings (Lease & Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—*Section 2 (1)— Building—Meaning of the term 'land appurtenant —It is that parcel of land which is necessary for beneficial enjoyment of the building and which parties considered appropriate to let along with the building—Land appurtenant to building will be covered by definition of building.*
Kunhibi,P.P. v. Sherin,P.V. I.L.R. 2010(1) Kerala .. 933
- Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—*Section 11(3)—Landlord seeking eviction of one of his tenants —Landlord has the right to choose the tenant who is sought to be evicted in preference to the other tenants and unless there is oblique motive, the authorities cannot intervene in the power of pick and choose exercised by the landlord.*
Dr. P. Venugopalan Nair v. Mohammed Kunhi I.L.R. 2010(1) Kerala .. 881
- Building Tax Act, 1975 (Kerala Act 7 of 1976)**—*Sections 5A and 9—Luxury Tax-Building Tax for the entire assessed plinth area remitted without contest—The Building owner is free to contest the recurring liability imposed by way of luxury tax, if the plinth area assessed is in excess, notwithstanding the fact that he has paid the building tax on such wrong plinth area originally assessed.*
Surendran v. District Collector I.L.R. 2010(1) Kerala .. 651

- Carriage by Air Act, 1972 (Central Act 69 of 1972)**—*Section 25(1), Rules 22 and 25 of Schedule I—Wilful misconduct of carrier—Burden of proof—Once the carrier receives the cargo, the obligation is on the carrier to safely deliver the same—Burden of proof is on the carrier to show that they have taken all necessary care and precaution to ensure safety of the article, entrusted with them for delivery—In the absence of such proof the only conclusion possible is that the carrier is guilty of wilful misconduct.*
 M/s Indian Airlines v. Kurian Abraham I.L.R. 2010(1) Kerala . 576
- Christian Marriage**—*Payment of Pasaram to the Church cannot be reckoned as gospel truth to come to any specific finding on the quantum of amount that was actually paid by the parties to the marriage.*
 Jacob Kuruvila v. Merly Jacob I.L.R. 2010(1) Kerala .. 732
- Christian Personal Law**—*A Christian Husband is liable to maintain his wife and such obligation can be enforced through the Family (Civil) Court—The right to maintenance of the wife is founded on the vows of marriage and the principles of justice, equity and good conscience.*
 Jacob Kuruvila v. Merly Jacob I.L.R. 2010 (1) Kerala .. 732
- Christian Succession Act, 1092 (Travancore Act 2 of 1092)**—*Section 30— Inheritance to property of certain classes of Christians living in specified Taluks—Proof of residence in Neyyatinkara Taluk by itself is not sufficient to hold that female and male children have equal right to inherit the property of their father, who died intestate—Person claiming such right should show that the family is following customary usage of giving equal share to male and female heirs.*
 Abraham Thomson v. Kunjamma Jeevamony I.L.R. 2010(1) Kerala . 133
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Order XXI, Rule 10— Decree-holder in a decree for specific performance cannot seek execution of decree for recovery of costs awarded in the suit, without depositing balance sale consideration—Decree for costs forms integral part of decree for specific performance and such a decree can be executed only as a whole.*
 Narikkundil Narayanan v. Kileri Manoharan I.L.R. 2010 (1) Kerala .. 93
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)**—*Section 60(l)(c)— A prawn peeling worker depending for her livelihood on that labour, is qualified to be termed as a labourer as defined in Section 60(l)(c).*
 Vasanthakumari v. Raichal Banitta I.L.R. 2010 (1) Kerala .. 398

- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order 33, Rule 1, Explanation—Sufficient means to pay Court fee—Before granting permission to sue as indigent, the Court has to examine whether the petitioner has 'sufficient means' to pay the Court fee—Court cannot expect plaintiff to sell portion of her property to raise sufficient funds to remit Court fee.**
Rajamma Joseph v. Binu Prasad I.L.R. 2010 (1) Kerala .. 364
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order IX, Rule 13—Condition for setting aside ex parte decree—Court/Debt Recovery Tribunal can direct deposit of portion of the decree amount, as a condition precedent for setting aside ex parte decree.**
Summer Sand Hill Resort & Ayurvedic Centre v. State Bank of India I.L.R. 2010(1) Kerala .. 468
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XLI, Rule 22(4)—When an appeal is dismissed otherwise than on merits, the cross appeal can be considered on merits only if the appeal had been dismissed as withdrawn or dismissed for default—Rejection of an appeal for non-payment of court fee would not amount to a dismissal for default.**
Mathai, M. J. v. Thressiamma, P. E. I.L.R. 2010 (1) Kerala .. 569
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 438—Section 438 is not a refuge for offenders who indulge in grave and heinous crimes—When there is prima facie evidence of terrorist activities in connection with the incident of setting fire to a State Transport Bus, persons involved in the incident are not entitled to be granted anticipatory bail.**
Soofiya Madani v. Varghese, P. M. I.L.R.2010(1)Kerala .. 140
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 438—An order directing further investigation cannot be challenged in a bail application.**
Soofiya Madani v. Varghese, P.M. I.L.R.2010(1)Kerala .. 140
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 340—Procedure to be followed for prosecution of offences against public justice—Complaint can be filed only after conducting an enquiry by the concerned court or superior court—Court conducting the enquiry shall issue notice in Form No. 33 of Appendix 1 of Criminal Rules of Practise to the person against whom enquiry is proposed—If the person against whom the enquiry is proposed is an officer of the Court, such as an Advocate, principles of fair play also require that notice should be**

- given to him to show cause why complaint should not be made—Criminal Rules of Practise, 1982 (Kerala)—Appendix 1, Form No. 33.*
 Babu P. Benedict v. Principal MACT I.L.R. 2010(1) Kerala .. 216
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Sections 384, 385 and 386—***Except when an appeal is dismissed summarily under Section 384, the appellate court is bound to call for the records, peruse the same and decide the appeal on merit—Even when the counsel or party reports that he is not proceeding with the appeal which is duly lodged, appellate court has to follow the procedure prescribed under Sections 384, 385 and 386 of the Code, as the case may be.*
 Samul Philipose v. Koshy Thomas I.L.R. 2010 (1) Kerala .. 270
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 482—***Inherent power of the High Court—Conviction under Section 498A, I.P.C. can be quashed by the High Court, to secure the ends of justice, on the basis of settlement arrived at between the parties—Penal Code, 1860 (Central Act 45 of 1860)—Section 498A.*
 Biju Eappen v. State of Kerala I.L.R.2010(1)Kerala .. 259
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 82(1) and 82(4)—***Power to issue warrant for arrest of an absconding accused, based on newspaper reports—In a case where warrants were repeatedly issued and the presence of the accused could not be secured, it would not be illegal or improper if the Magistrate gathers the necessary information from newspapers that a particular accused is available at a particular place—The Bar against using personal knowledge in a case, by the concerned Magistrate, would apply only when the information has any bearing upon the decision to be rendered in the case.*
 Thirumali Kumar v. State of Kerala I.L.R.2010(1)Kerala .. 497
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 378(4)—***Appeal against acquittal—An appeal against acquittal has to be preceded by an application seeking special leave—A complainant would become entitled to file the appeal only after he obtains special leave—I.L.R. 2008 (3) Kerala 444, overruled.*
 Johnson, 1.1. v. M. K. Sebastian I.L.R. 2010 (1) Kerala .. 516
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 167(2) (a) (i)—***In a case where final report is filed by the investigating officer within time and it is later returned for curing defects, the accused would not be entitled to demand for enlargement on 'default bail', on the ground that there is no final*

- report before the court on completion of 60 or 90 days of custody, as the case may be.*
Shino Paul v. State of Kerala I.L.R. 2010(1) Kerala .. 584
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 309 (2), Explanation I—***If the conditions in explanation I of Section 309 (2) are satisfied the Magistrate can remand an accused during the interregnum after filing of charge-sheet and taking cognisance by the court.*
Shino Paul v. State of Kerala I.L.R. 2010(1) Kerala .. 584
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 227—***Consideration of records and documents at the stage of framing charge is for the limited purpose of ascertaining whether or not there is sufficient ground for proceeding against the accused—Whether the materials at the hands of the prosecution are sufficient and -whether the trial will end in conviction or acquittal are not relevant considerations at the stage of framing charge.*
Vijayan, P. v. State of Kerala (S.C.) I.L.R. 2010(1) Kerala .. 597
- Companies Act, 1956 (Central Act 1 of 1956)—Section 442(2)—***Winding up— If petition for winding up is filed on just and equitable grounds under 4330, the relief can be declined if there is other alternate remedy and if the Court feels that petitioners are acting unreasonably in seeking winding up, instead of pursuing alternate remedy.*
Vamadevan, N. v. SNDP I.L.R. 2010 (1) Kerala .. 332
- Companies Act, 1956 (Central Act 1 of 1956)—Section 543—***Proceedings under Section 543 being rather 'quasi-criminal' in nature, degree of proof and adequacy of evidence are matters, which are to be considered with more circumspection.*
Prabhu,L.K. v. Official Liquidator I.L.R. 2010(1) Kerala .. 874
- Constitution of India—Article 14—***Age of retirement of employees of K.S.E.B.— There is no discrimination against employees of K.S.E.B. in so far as their age of retirement is fixed as 31st of the month in which they attain the age of 55 years, unlike State Government employees—It is for the employer to decide the age and date of superannuation of employees—Court can interfere only if the decision is perverse or arbitrary.*
Muraleedharan Nair, K. v. State of Kerala I.L.R. 2010 (1) Kerala .. 13

- Constitution of India—Article 25—'Love Jihad'/'Romeo Jihad'—**
Article 25 of the Constitution of India does not entitle a person to indulge in activities for compulsive religious conversion.
 Shahan Sha, A. v. State of Kerala I.L.R. 2010 (1) Kerala .. 296
- Constitution of India—Article 25—Parents have a say in the matter of the future and career of children who have attained majority—**
Article 25 is aimed at protecting individual freedom and is not aimed at destroying family set up and culture.
 Shahan Sha, A. v. State of Kerala I.L.R. 2010 (1) Kerala .. 296
- Constitution of India—Article 39(d)—Equal pay for equal work—After drawing employees into one cadre from different source, there cannot be discrimination among them on the basis of the source of recruitment—Higher Secondary School teachers recruited from open market and those appointed by promotion are both eligible to draw the same pay and allowances.**
 Sangeeta, G. P. v. State of Kerala I.L.R. 2010 (1) Kerala .. 421
- Constitution of India—Article 226—Findings of a duly constituted Enquiry Committee cannot be interfered with under Article 226, unless the findings are found to be unreasonable, perverse, illegal, irrational or bad for procedural impropriety.**
 Derrick Joy v. Director, Technical Education I.L.R. 2010(1) Kerala .. 391
- Constitution of India—Article 15(4)—Economic reservation—State is justified in granting reservation to students belonging to economically weaker sections of forward communities—Such reservation will not take away the benefit presently enjoyed by Socially and Educationally Backward Classes, such as Muslims.**
 Kerala Muslim Jama-ath Council v. State of Kerala
 I.L.R. 2010(1) Kerala .. 458
- Constitution of India—Article 226—Power of superior courts to direct investigation by local police to be handed over to the C.B.I.—In cases where gross allegations made against the investigating agency are found to be justifiable, superior courts can direct investigation of heinous crimes to be handed over to the C.B.I., so as to assure the victim of a fair, proper and impartial investigation.**
 George Muthoot v. State of Kerala I.L.R. 2010(1) Kerala .. 441
- Constitution of India—Article 12—Aided Colleges are 'State' within the meaning of Article 12 of the Constitution as it is a body substantially financed by funds provided by the State.**
 Lee, V. S. v. State of Kerala I.L.R. 2010 (1) Kerala .. 606

- Constitution of India—Article 235—Review filed by delinquent judicial officer can be decided by the Government only in accordance with the opinion of the High Court—Government is bound by the opinion of the High Court and does not have any independent power—Government need not hear the delinquent before deciding the review.**
High Court of Kerala v. Mohammed Faisal I.L.R.2010(1)Kerala .. 685
- Constitution of India—Article 142—The fact that the Supreme Court has chosen to dispense the statutory period of waiting in exercise of its powers under Article 142, cannot cloth the Family Courts, District Courts and the High Courts with authority to ignore the mandatory provisions and dispense with the period of waiting.**
Krishna Preetha,M. v. Dr. Jayan Moorkkanatt I.L.R. 2010(1) Kerala .. 764
- Constitution of India—Article 329(a)—Article 329(a) of the Constitution of India contains an absolute bar against maintainability of a Writ Petition under Article 226, challenging an order passed under the Delimitation Act.**
Chirayinkeezhu A. Babu v. Delimitation Commission
I.L.R. 2010 (1) Kerala .. 852
- Constitution of India—Police protection—If the employees in an establishment are not registered under the Headload Workers Act, the establishment will have to use registered Headload Workers for the loading and unloading work.**
Manoharan,S. v. C.I. of Police I.L.R. 2010(1) Kerala .. 885
- Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 69(2)(d) (As amended by Act I of 2000)—Amended Section 69 does not exclude the jurisdiction of the Labour Courts and Industrial Tribunals to entertain and decide disputes raised by workmen of Co-operative Societies in Kerala—The power to decide disputes raised by workmen of Co-operative Societies vests concurrently with the Labour Courts/Industrial Tribunals and the Co-operative Societies, as the case may be, depending on whether the dispute is non-monetary or monetary—Constitution of India—Article 254(2).**
A. R. Nagar Service Co-operative Bank Ltd. v. State of Kerala
I.L.R.2010(1)Kerala .. 32
- Co-operative Societies Rules, 1969 (Kerala)—Rule 35A—No power is conferred on the Government or the Registrar to issue directions to the State Co-operative Election Commission, prescribing the manner in which elections to Co-operative Societies are to be conducted—Ballot papers are to be printed only in accordance**

- with Rule 35AQ)—Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Sections 28B and 66A.*
 Mahalingam, R. v. State Co-operative Election Commission
 I.L.R. 2010(1) Kerala .. 41
- Co-operative Societies Rules, 1969 (Kerala)—Rule 182 B—**
Prescription of a condition, for being considered to be included in the membership of a Board is not the same as prescription of qualification for appointment to a post— Challenge against introduction of proviso to Rule 182 B(l) prescribing terms as to qualification of persons who could be brought together to constitute the Co-operative Service Examination Board, repelled— Co-operative Societies Act, 1969 (Kerala Act 21 of 1969)—Section 80 B.
 Sam Zacharias, D. v. State of Kerala I.L.R. 2010 (1) Kerala .. 345
- Court Fees Act, 1870 (Central Act 7 of 1870)—Section 16—**
The provisions of Central Court Fees Act are inapplicable in the State in view of the application of Kerala Court Fees and Suits Valuation Act, 1959—Kerala Court Fees and Suits Valuation Act, 1959 (Kerala Act 10 of 1960)—Section 4A.
 John Arthur Henshaw v. Sulochana I.L.R. 2010(1) Kerala .. 290
- Criminal Law—Role of victims at the stage of investigation—**
Victims of heinous crimes have every right to question the correctness of investigation, indicating, not imaginary but definite, suspicion about the veracity of the investigation.
 George Muthoot v. State of Kerala I.L.R. 2010 (1) Kerala .. 441
- Delimitation Act, 2002 (Central Act 33 of 2002)—Section 10(2)—**
Even in the absence of express provision the Delimitation Commission should be conceded to have inherent power to correct mistakes, in order to advance the purpose of the Delimitation Act and the principles of Delimitation provided under Articles 330 and 332 of the Constitution of India—Constitution of India— Articles 330 and 332.
 Chirayinkeezhu A. Babu v. Delimitation Commission
 I.L.R. 2010 (1) Kerala .. 852
- Disaster Management (National Disaster Response Force) Rules, 2008 (Central)—Rules 3 and 4—**
National Disaster Response Force (NDRF) is a service or cadre, distinct and different from the Central Para Military Forces— Method of posting personnel to NDRF is by way of deputation—Personnel deputed to NDRF will be governed by the Act and Rules applicable to the respective

Force and its services from which they are deputed—Disaster Management Act, 2005 (Central Act 53 of 2005).

Marymol, T. P. v. Director General, CISF I.L.R. 2010(1) Kerala .. 126

Dissolution of Muslim Marriages Act, 1939 (Central Act 8 of 1939)—

Section 2(viii)(f)—Right of Muslim women to seek divorce on the ground that her husband does not treat her equitably, in accordance with the injunctions of the Quran—If the wife asserts that her husband, who has contracted second marriage, is not treating her equitably, she is entitled to divorce—If the wife feels that she has not been treated justly and equitably, her assertion or perception should be accepted by the Court.

Abdurahiman v. Khairunneesa I.L.R. 2010(1) Kerala .. 830

Divorce Act, 1869 (Central Act 4 of 1869)—Section 10A(1)—

Stipulation in Section 10A(1) that the spouses must 'have been living separately for a period of two years or more' declared to be unconstitutional as the stipulation of a period of 'two years' violates the fundamental right to equality and right to life under Articles 14 and 21 of the Constitution of India—The period of 'two years' stipulated in Section 10A(1) read down as 'one year'—Constitution of India—Articles 14, 21 and 44.

Saumya Ann Thomas v. Union of India I.L.R. 2010 (1) Kerala .. 805

Divorce Act, 1869 (Central Act 4 of 1869)—Section 10A—Section 10A

of the Divorce Act is amenable to the challenge under Article 13 of the Constitution of India—Proposition that personal laws are not 'laws in force' falling within the sweep of Article 13, doubted.

Saumya Ann Thomas v. Union of India I.L.R. 2010 (1) Kerala .. 805

Easements Act, 1882 (Central Act 5 of 1882)—Section 15—Easement

by prescription—Servient owner need not have actual knowledge of use of way, for such user to mature into an easement by prescription—If use of way is open and not surreptitious, law presumes knowledge of servient owner.

Pankajakshi Amma v. Gourikutty Amma I.L.R. 2010(1) Kerala .. 157

Education Rules, 1959 (Kerala)—Chapter VI, Rules 5(1) and 10B—

Application for correction of date of birth cannot be rejected for the reason that if the correction is carried out, the applicant would have been under aged, at the relevant point of time, for admission to the first standard—The prohibition for admission of a child in a school as provided in Rule 5 cannot have any relevance in the matter of considering the question of alteration of the date of birth.

Chandrika, A. K. v. State of Kerala I.L.R. 2010 (1) Kerala .. 95

- Education Rules, 1959 (Kerala)**— *Chapter XIV A, Rule 51B— Appointment under Dying-in-harness Scheme—If the application for appointment under Rule 51B is defective, it is for the Manager to direct the applicant to cure the defect—If the defective application is within time and the applicant is otherwise eligible, he is entitled to be appointed.*
Unnikrishnan, K. M. v. Manager I.L.R. 2010 (1) Kerala .. 193
- Education Rules, 1959 (Kerala)**—*Chapter XIVA—Real likelihood of bias— Asst. Educational Officer, who was the Enquiry Officer, later granted sanction for imposing punishment—There is a real likelihood of bias as the Officer is likely to take the same view, which prompted him to find the delinquent guilty— Punishment liable to be set aside for violation of principles of natural justice.*
Shyla, V. v. Secretary to Government I.L.R. 2010(1) Kerala .. 781
- Evidence Act, 1872 (Central Act 1 of 1872)**—*Section 32(1)—Accused prosecuted for offences under Sections 498 A and 304 B r/w 34 I.P. C.—Accused acquitted of the offence under Section 304 B by trial court—The statement of a deceased person so as to become admissible under Section 32(1) has to be in a case where the cause of that person's death comes into question—The allegation made by the deceased person with regard to cruelty cannot come for consideration in a prosecution under Section 498 A with the aid of Section 32(1) of the Evidence Act.*
Mony v. State of Kerala I.L.R. 2010(1) Kerala .. 234
- Family Courts Act, 1984 (Central Act 66 of 1984)**—*Section 18—In the course of execution proceedings. Family Court has jurisdiction to consider a claim made by a stranger under Order 21, Rule 58 of the Code of Civil Procedure— Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order 21, Rule 58.*
Narayanan Namboodiri v. Saraswathy I.L.R. 2010(1) Kerala .. 162
- Farmers Debt Relief Commission Act, 2006 (Kerala Act 1 of 2007)**—*Section 2(vii)—Housing loan availed for construction of an ordinary homestead, does not fall within the exclusionary clause in Section 2(vii)— Provisions of the Act is applicable to such loans.*
Kerala State Co-operative Bank Ltd. v. Kerala State Farmers Debt Relief Commission I.L.R. 2010(1)Kerala .. 27
- Farmers Debt Relief Commission Act, 2006 (Kerala Act 1 of 2007)**—*Sections 5, 9 and 10—Debts due to institutional creditors are excluded from the jurisdiction of the Commission under Section 5 of the Act—Though Commission cannot direct waiver of loans due to institutional creditors, it can direct institutional creditors to regulate and re-schedule the loans, in exercise of powers*

conferred on the Commission under Sections 9 and 10 of the Act.

Kerala State Co-operative Bank Ltd. v. Kerala State Farmers
Debt Relief Commission I.L.R. 2010(1) Kerala .. 27

Foreign Liquor Rules, 1953 (Kerala)—*Rule 13(1)*—*Grant of FL-1 licence—Hostel is an integral part of the educational institution, even if it is situated some distance away from the college premises—Licence cannot be granted within prohibited distance of the Hostel, irrespective of the distance between the Hostel and the college.*

Surendran, P. v. State of Kerala I.L.R. 2010(1) Kerala .. 372

General Sales Tax Act, 1963 (Kerala Act 15 of 1963)—*Sections 39 (3) & 53—Statutory authorities under the Act, including the Tribunal, do not have the power to dispense with payment of court fee—Powers of the Civil Court contained in Orders XXXIII & XLIV are not available to authorities under the Act—Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Orders XXXIII & XLIV.*

Sunny, C.K. v. State of Kerala I.L.R. 2010(1) Kerala .. 511

General Sales Tax Act, 1963 (Kerala Act 15 of 1963)—*Sections 5(1) and 7(l)(a)—When compounding is opted by an assessee, the same should be for the business as a whole, irrespective of the number of branches maintained by the assessee—Assessee cannot opt for payment of tax at compounded rate for some of the branches and pay tax under Section 5(1) for the other branches.*

M/s Joy Alukkas Traders v. State of Kerala I.L.R. 2010(1) Kerala .. 699

General Sales Tax Act, 1963 (Kerala Act 15 of 1963)—*Section 35—The payment of tax at the compounded rate based on approval and the demand notice issued pursuant to such approval are only provisional and is subject to acceptance in a regular assessment—The Deputy Commissioner is competent to revise an assessment prejudicial to the interest of the revenue even if such assessment is completed based on an erroneous compounding order passed by the Assessing Officer in Form No.21A and which is not cancelled or revised by the Deputy Commissioner.*

M/s Joy Alukkas Traders v. State of Kerala I.L.R. 2010(1) Kerala .. 699

High Court Rules, 1971 (Kerala)—*Rule 159(2)—Legal heirs of a writ petitioner need not pay separate court fee for continuing the pending proceeding—Legal heirs of writ petitioner need only pay one set of court fee for filing writ appeal, if they are jointly agitating the cause of the writ petitioner.*

Eliyamma Kuriakose v. Plantation Corporation I.L.R. 2010(1) Kerala .. 266

- High Court Rules, 1971 (Kerala)**—*Rule 9—Court cannot delegate judicial functions to the Registry—Only the Chief Justice can issue directions in matters relating to the administrative and judicial business of the Registry.*
Johnson, T. T. v. M.K. Sebastian I.L.R. 2010(1) Kerala .. 516
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)**—*Section 2(l)(c)—In the absence of any stipulations of law or specific recognised practise governing conversion to Hinduism, the legislature should prescribe methods by which a person, can effectuate such conversion, without difficulty.*
Betsy v. Nil I.L.R. 2010(1) Kerala .. 46
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)**—*Sections 12 and 24—The provisions of Section 24 of the Hindu Marriage Act is applicable even to proceedings under Section 12 of the Hindu Marriage Act, initiated for declaration of nullity of marriage.*
Sudheesh Babu, T. P. v. Sherly, P. I.L.R. 2010 (1) Kerala .. 24
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)**—*Section 13—Irretrievable break down of marriage, by itself, is not a ground for divorce—In a claim for divorce on the ground of cruelty, if it is proved that certain pieces of conduct have made it impossible for the parties to resume co-habitation and revive the marriage and the marriage is dead de facto, such piece of conduct can certainly be reckoned as amounting to contumacious matrimonial cruelty to justify the plea for divorce.*
Manoj, C. V. v. Vidhya I.L.R. 2010 (1) Kerala ..75
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)**—*Section 13—Physical cruelty or physical assault flowing from the dominant spouse against the weaker one cannot be held to be an incident of the natural and ordinary wear and tear of marriage.*
Manoj, CV.v. Vidhya I.L.R. 2010(1) Kerala .. 75
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)**—*Section 13—Specific pleadings with reference to dates and events regarding each act of matrimonial cruelty in meticulous detail, need not be insisted.*
Manoj, C. V. v. Vidhya I.L.R. 2010 (1) Kerala .. 75
- Income Tax Act, 1961 (Central Act 43 of 1961)**—*Chapter XVI, Section 184— Production of certified copy of instrument of partnership is mandatory for claiming assessment in the status of a firm, for any assessment year commencing from 1993-94 onwards, irrespective*

of whether such assessee was assessed as a registered firm up to 1993-94.

M/s Bhaskar & Co. v. Commissioner of Income Tax

I.L.R. 2010 (1) Kerala

.. 254

High Court Rules, 1971 (Kerala)—Rule 159(2)—*Legal heirs of a writ petitioner need not pay separate court fee for continuing the pending proceeding— Legal heirs of writ petitioner need only pay one set of court fee for filing writ appeal, if they are jointly agitating the cause of the writ petitioner.*

Eliyamma Kuriakose v. Plantation Corporation I.L.R. 2010(1) Kerala .. 266

High Court Rules, 1971 (Kerala)—Rule 9—*Court cannot delegate judicial functions to the Registry—Only the Chief Justice can issue directions in matters relating to the administrative and judicial business of the Registry.*

Johnson, T. T. v. M.K. Sebastian I.L.R. 2010(1) Kerala

.. 516

Hindu Marriage Act, 1955 (Central Act 25 of 1955)—Section 2(l)(c)—*In the absence of any stipulations of law or specific recognised practise governing conversion to Hinduism, the legislature should prescribe methods by which a person, can effectuate such conversion, without difficulty.*

Betsy v. Nil I.L.R. 2010(1) Kerala

.. 46

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Sudheesh Babu, T. P. v. Sherly, P. I.L.R. 2010 (1) Kerala

.. 24

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Manoj, C. V. v. Vidhya I.L.R. 2010 (1) Kerala .. 75
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M/s Bhaskar & Co. v. Commissioner of Income Tax
I.L.R. 2010 (1) Kerala .. 254
- Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (Kerala Act 11 of 1996)**—*Section 24— Bar of jurisdiction of Civil Court—Section 24 does not curtail jurisdiction of the Election Tribunal, trying an election petition under the Panchayat Raj Act, from adjudicating upon the disqualification imputed against a returned candidate as not being a member of SC or ST Community and his eligibility to contest in a constituency reserved for SC/ST.*
Mini, A. K. v. Jwala Sajikumar I.L.R. 2010 (1) Kerala .. 909
- Land Acquisition Act, 1894 (Central Act 1 of 1894)**—*Section 28A— Award of reference court set aside in appeal by High Court and the case remanded— Award passed after remand by High Court— Application under Section 28A can be filed within three months from the date of such award.*
Annamma Thomas v. State of Kerala I.L.R. 2010(1) Kerala .. 888
- Land Reforms Act, 1963 (Kerala Act 1 of 1964)**—*Section 125 (3)— Reference to the Land Tribunal—Only a party claiming tenancy right can seek reference to the Land Tribunal for determination of any question regarding tenancy right— A party in possession of property pursuant to an agreement cannot seek reference to Land Tribunal on the ground that his predecessor has tenancy right over the property.*
Vijayan Menon v. Ansal Builders Ltd. I.L.R. 2010(1) Kerala .. 552
- Legal Services Authorities Act, 1987 (Central Act 39 of 1987)**—*Section 21— Claim of refund of 1/10th of the Court Fee remitted, on passing of an award under Section 21 of the Legal Services Authorities Act—There is no provision in the Kerala Court Fee and Suits Valuation Act enabling refund of the court fee which has been paid only to the extent covered by Section 4A of the Act—*

- Court Fees and Suits Valuation Act, 1959 (Kerala Act 10 of 1960)—Section 4A.*
John Arthur Henshaw v. Sulochana I.L.R. 2010(1) Kerala .. 290
- Limitation Act, 1963 (Central Act 36 of 1963)—Section 23—Section 23**
is not confined in its application to suits for compensation arising from ton—It would apply to suits based on contract where terminus a quo is the date of injury and not breach of contract.
Rehabilitation Plantations Ltd. v. P. S. Ansary I.L.R. 2010 (1) Kerala .. 350
- Limitation Act, 1963 (Central Act 36 of 1963)—Section 23 and Article 55—Section 23 cannot apply to suits governed by Article 55, where the cause of action arises on breach of contract or in the case of continuing breach, when such breach ceases.**
Rehabilitation Plantations Ltd. v. P. S. Ansary I.L.R. 2010(1) Kerala .. 350
- Matrimonial Law—Divorce by mutual consent—Waiting period after filing joint petition—The waiting period under Section 13B of the Hindu Marriage Act, Section 10A of the Indian Divorce Act and Section 28 of the Special Marriage Act cannot be waived by the Family Court, District Court or High Court, either on application of parties or suo moto.**
Krishna Preetha, M.v. Dr. Jayan Moorkkanatt I.L.R. 2010(1) Kerala .. 764
- Money Lenders Act, 1958 (Kerala Act 35 of 1958)—Section 2(7)—The natural meaning of the term "person " would take in not only natural persons, but artificial persons like companies, statutory corporations, societies etc.—General Clauses Act, 1897 (Central Act 10 of 1897)—Section 3(42).**
M/s Sundaram Finance Ltd. v. State of Kerala I.L.R. 2010 (1) Kerala .. 201
- Money Lenders Act, 1958 (Kerala Act 35 of 1958)—Section 2(7)(f)—The institutions intended to be covered under Section 2 (7) (f) are statutory corporations formed to carry on business in granting loan or making advances based on the provision of the statute under which they are created.**
M/s Sundaram Finance Ltd. v. State of Kerala I.L.R. 2010 (1) Kerala .. 201
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Section 147—The cleaner of a bus who suffered injury in the course of his employment cannot claim to be a third party and file a petition claiming compensation—As no additional premium is paid, insurer is not liable to compensate the cleaner of the vehicle.**
Rajan, K. S. v. Pravith I.L.R. 2010 (1) Kerala .. 284

- Motor Vehicles Act, 1988 (Central Act 5 of 1988)**—Section 2(30)
—A person who is in lawful possession of the motor vehicle can apply for and obtain a regular/ temporary permit to operate a stage carriage—Motor Vehicles Act, 1939 (Central Act 4 of 1939)—Section 2(19).
 Anilkumar, S. v. Secretary, R.T.A. I.L.R. 2010(1) Kerala .. 722
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—Section 168—
Award of the Claims Tribunal—Award should contain a summary tabular statement of the heads of claim raised, amount awarded and a brief mode of computing the amount awarded—Directions issued to Tribunals.
 Kalesh v. Sudheer I.L.R. 2010(1) Kerala .. 748
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—Section 169—
Procedure of Tribunal—Claim of physical disability—Tribunal should examine the claimant personally and record its findings about the disability— If the Tribunal feels that the disability certificate cannot be accepted without proof, claimant should be directed to offer proof of disability or refer the claimant to Medical Board.
 Kalesh v. Sudheer I.L.R.2010(1)Kerala .. 748
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—Section 169—
Procedure of Tribunal—Examination of witness—Claimants should take steps sufficiently early, for examination of witnesses.
 Kalesh v. Sudheer I.L.R.2010(1)Kerala .. 748
- Municipalities Act, 1994 (Kerala Act 20 of 1994)**—Sections 216 and 472—
Resolution passed by the Municipality, awarding the contract for construction of a Bus Terminal Complex on BOT basis—Resolution can be sourced to Section 216 and not Section 472 of the Act—Challenge to the resolution by way of an appeal to the Tribunal under Section 509 is not maintainable.
 Sugunan, M.S. v. Kunnankulam Municipality I.L.R. 2010(1) Kerala .. 559
- Municipality Act, 1994 (Kerala Act 20 of 1994)**—Section 234—
Assessment of Property Tax—For assessing property tax, the annual rental value of the building should be assessed on the basis of the rent at which the building may reasonably be expected to be let and not on the actual rental value derived by the owner.
 Thomas John Muthoot v. State of Kerala I.L.R. 2010 (1) Kerala .. 708

- Municipality Act, 1994 (Kerala Act 20 of 1994)**—Section 234—*Property Tax assessment—Property tax cannot be enhanced to 400% above the prevailing rate—Such an enhancement is arbitrary.*
Thomas John Muthoot v. State of Kerala I.L.R. 2010 (1) Kerala .. 708
- Municipality Building Rules, 1999 (Kerala)**—Rule 3(iii)—*Rule 3 (iii) is intra vires and do not suffer from any infirmity—Government can invoke the power under Sections 235A and 254(2)(xviii) to extend the Municipality Building Rules to Grama Panchayat—Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)— Sections 235 A and 254(2).*
Mather Projects (P) Ltd. v. Government of Kerala I.L.R.2010(1)Kerala .. 6
- Municipality Building Rules, 1999 (Kerala)**—Rule 7—*Clarification issued to the decision in Nasar v. Malappuram Municipality [I.L.R. 2009 (3) Kerala 520]— The dictum laid down in Nasar's case, that the Municipality cannot fetter the right of owners of land under the pretext of a Town Planning Scheme which has not become operational by acquisition, would not apply to cases which do not involve acquisition of land for the purpose of a Town Planning Scheme.*
Secretary to Government, LSGD v. P.K.Nazar I.L.R. 2010(1)Kerala .. 521
- Municipality Building Rules, 1999 (Kerala)**—Rule 21—*Transfer of partially constructed building—Secretary of the Corporation is bound to transfer the permit to the purchaser of a semi built building provided the transfer shall not affect the development or construction.*
Usman, P. K. v. Corporation of Calicut I.L.R. 2010 (1) Kerala .. 477
- Municipality Building Rules, 1999 (Kerala)**—Rule 15A(10)—*Validity of Building permit can be extended beyond nine years, in exceptional circumstances—Permit holder could not start construction pursuant to the building permit ns the building was not vacated by the tenant, which was the Sub Court—Administration of justice is a sovereign function, discharge of which shall not prejudice a third party—Since the construction could not begin within the maximum possible time of 9 years from the date of permit, on account of discharge of sovereign function. Municipality directed to renew the permit for a further period of 3 years.*
Abdulla, K. M. v. Secretary I.L.R. 2010 (1) Kerala .. 987
- Negotiable Instruments Act, 1881 (Central Act 26 of 1881)**—Section 142 (b)—*One month of the date on which cause of action arises— A month is to be calculated without adverting to the number of*

days in a month—If one month is calculated from 1st of February, the month would expire on 28th February or on 29th February, as the case may be.

Thomas, A.V. v. Benny Thomas I.L.R. 2010(1) Kerala .. 777

Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Chapter XVIII—
Power of the Government to issue directions—Government can direct Panchayats to collect permit fee for unnumbered buildings.
 Mather Projects (P) Ltd. v. Government of Kerala I.L.R. 2010(1) Kerala ..6

Panchayat Raj Act, 1994 (Kerala Art 13 of 1994)—Sections 35(k) & 37(2)—
The notice provided for in Section 37(2) is not a condition precedent for the sufferance of the consequence of the disqualification incurred by the occurrence of the event described in Section 35(k)—Section 37(2) provides an opportunity to the disqualified member for restoration of the membership, the cessation of which has visited him by the operation of Section 35(k).
 Pushpam Simon v. Karumkulam Grama Panchayath I.L.R.2010(1)Kerala..167

Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Section 36(1) & (3)
— The entire procedure applicable to the trial of a suit in terms of the provisions of the Code of Civil Procedure is applicable to the trial of a petition under Section 36(1)—The scope of adjudication of the disqualification of a member under Section 36(1) can spread over to the question whether the member is disqualified in terms of any other provision also.
 Pushpam Simon v. Karumkulam Grama Panchayath I.L.R.2010(1)Kerala..167

Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Section 36(1)—
When the panchayat is called by the Election Commission in relation to an application for adjudication as to disqualification of a member, it cannot be excluded from placing its contention with regard to the disqualification,
 Pushpam Simon v. Karumkulam Grama Panchayath.I.L.R.2010(1) Kerala 167

Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Section 35(h)—
The concept of the terms ordinarily resident, ordinarily resides, non-resident etc., is irrelevant to conclude on the quality of the term 'ceases to reside'—Non-availability or absence from a particular place for a particular period of time does not result in cessation of residence— "Cessation" involves a huge amount of mental element to give up residence.
 Pushpam Simon v. Karumkulam Grama Panchayath I.L.R.2010(1)Kerala..167

- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)**—*Section 52(1A)*—*Requirement of a valid nomination—Involvement in criminal case means arraignment as accused in a final report of which the Court has taken cognisance—Any candidate involved in criminal case should mention the details of the case in Form 2A, irrespective of whether the trial of the case has commenced or not— Panchayath Raj (Conduct of Election) Rules, 1995—Rule 6 (2a).*
George Joseph v. P. K. Ramachandran I.L.R. 2010 (1) Kerala .. 227
- Panchayat Raj (Issue of Licenses to Dangerous and Offensive Trades and Factories) Rules, 1996 (Kerala)**—*Rule 12 (4)—Appeal to the Green Channel Committee—Rule 12 (4) is intra vires the rule making authority—Provision for appeal under Rule 12 (4) is in addition to appellate remedy under Section 276 (5)—Party can avail either of the appellate remedies—Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Section 276 (5).*
Ahammed Kunju, M. H. v. State of Kerala I.L.R. 2010 (1) Kerala .. 210
- Panchayat Raj (Manner of Service of Notices) Rules, 1996 (Kerala)**—**Rule 3**—*Service of notice—Sending notice by ordinary post— Panchayat cannot prove personal service of notice, if notice is despatched through ordinary post—In such cases, it is better to serve notice through registered post.*
BBP Properties (P) Ltd. v. Chengamanadu Grama Panchayat
I.L.R. 2010 (1) Kerala .. 250
- Partnership Act, 1932 (Central Act 9 of 1932)**—*Section 59—There is no provision in the Act requiring the registration of the reconstitution of a firm, which is already registered.*
Noble Kuries v. Sebastian I.L.R. 2010(1) Kerala .. 149
- Partnership Act, 1932 (Central Act 9 of 1932)**—*Sections 60 to 63— There is no time-limit for intimation of the reconstitution or other change in a registered partnership to the registrar of firms though the said intimation has to be given within a reasonable time— Partnership (Registration of Firms) Rules, (Central)—Rule 4(2).*
Noble Kuries v. Sebastian I.L.R. 2010(1) Kerala .. 149
- Partnership Act, 1932 (Central Act 9 of 1932)**—*Section 69(2)—Non-intimation of reconstitution or change in the firm to the Registrar or Firms by itself cannot affect the maintainability of the suit.*
Noble Kuries v. Sebastian I.L.R. 2010 (1) Kerala .. 149

- Penal Code, 1860 (Central Act 45 of 1860)—Section 498 A—**
Criticism of the deceased with regard to her inexperience in cooking in the matrimonial home—Such criticism and trivial bickering may occur in every household and they cannot be characterized as acts of matrimonial cruelty.
 Mony v. State of Kerala I.L.R. 2010 (1) Kerala .. 234
- Penal Code, 1860 (Central Act 45 of 1860)—Section 300—Exception 4**
—In order to claim the benefit under Exception 4, the following have to be simultaneously established—(1) There must be no premeditation (2) There must have been a sudden fight upon a sudden quarrel (3) The act must have been committed in the heat of passion (4) The offender must not have taken undue advantage or acted in a cruel manner.
 Johny v. State of Kerala I.L.R. 2010(1) Kerala .. 637
- Penal Code, 1860 (Central Act 45 of 1860)—Sections 302 and 304, Part II—**
Accused inflicting stab injury on the buttock of the deceased—Injury was sufficient to cause death in the ordinary course of nature and the victim succumbed to the injury—Considering the fact that injury was not inflicted targeting a vital part and that in spite of having opportunity no further injury was caused, the conviction under Section 302 I.P.C. altered to one under Section 304 Part II.
 Mohanan v. State of Kerala I.L.R. 2010 (1) Kerala .. 621
- Penal Code, 1860 (Central Act 45 of 1860)—Section 302—**
Section 302 I.P.C. provides for only two modes of sentences, one the maximum punishment of death and the other the lesser punishment of imprisonment for life—Court cannot prescribe any other sentence than what is provided under Section 302—Once a person is found guilty it is the duty of the Court to impose such sentence as is prescribed by law.
 Mohanan v. State of Kerala I.L.R. 2010(1) Kerala .. 621
- Promotion of Tree Growth in Non-Forest Area Act, 2005 (Kerala Act 46 of 2005)—Section 6—**
Owner of non-forest land within the notified area requires permission of authorised officer to cut, uproot or transport specified trees from his land—Lack of permission will make such act an offence under Section 7.
 Sukumaran v. State of Kerala I.L.R. 2010 (1) Kerala .. 544
- Protection of River Banks and Regulation of Removal of Sand Act, 2001 (Kerala Act 18 of 2001)—Section 24—**
Offences under the Act are cognizable— The question whether a particular offence is bailable or not does not depend on whether the offence is

- cognizable or non-cognizable— The Sand Act does not indicate that the offences under Sections 20 and 21 are non-bailable.*
 Biju v. State of Kerala I.L.R. 2010 (1) Kerala .. 190
- Protection of River Banks and Regulation of Removal of Sand Act, 2001 (Kerala Act 18 of 2001)**—Sections 12, 20 and 25—*Cognizance of an offence under the provisions of the Sand Act cannot be taken on a report filed by the police under Section 173(2) of Cr. P. C.—Cognizance can be taken only on a complaint in writing made by the officer as provided under Section 25.*
 Abdul Azeez v. State of Kerala I.L.R. 2010(1) Kerala .. 539
- Protection of Women from Domestic Violence Act, 2005 (Central Act 43 of 2005)**—Sections 12, 18, 19, 20, 21, 22 and 23—*The reliefs available under Sections 18 to 23, on an application filed under Section 12, are in respect of civil liability and not criminal liability—Inherent jurisdiction of the High Court under Section 482 Cr.P.C. cannot be invoked to quash a complaint filed under Section 12 seeking reliefs under Sections 18 to 23 of the Act.*
 Dr. Vijayalakshmi Amma v. Bindu, V. I.L.R. 2010(1) Kerala .. 60
- Protection of Women from Domestic Violence Act, 2005 (Central Act 43 of 2005)**—Sections 2(q) and 12—*The definition of "respondent" under Section 2(q) includes a female relative also—Complaint/Application under Section 12 can be filed against a female relative—Complaint provided under the proviso to Section 2(q) is the application filed under Section 12.*
 Dr. Vijayalakshmi Amma v. Bindu, V. I.L.R. 2010(1) Kerala .. 60
- Protection of Women from Domestic Violence Act, 2005 (Central Act 43 of 2005)**—Sections 12 and 23—*All Magistrates before whom applications under Section 12 or applications for interim order under Section 23 of the Act are filed, have to issue notices to the respondents in Form No. VII as prescribed under Rule 12—Protection of Women from Domestic Violence Rules, 2006—Rule 12.*
 Dr. Preceline George @ Antony Preceline v. State of Kerala
 I.L.R. 2010(1) Kerala .. 663
- Protection of Women from Domestic Violence Act, 2005 (Central Act 43 of 2005)**—Sections 12 and 23—*The Magistrates shall be careful while passing ad interim orders without notice to the respondents under Section 23(2)— Only ad interim orders can be passed by the Magistrate without notice to the respondents under Section 23(2)—The ad interim order is to be made absolute with*

- or without modification only after serving notice on the respondent.*
 Dr. Preceline George @ Antony Preceline v. State of Kerala
 I.L.R.2010 (1)Kerala .. 663
- Public Service Commission Rules of Procedure, 1976 (Kerala)—Rule 11(5)**—*Answer paper can be invalidated if the register number of the candidate is incorrectly entered in the answer sheet or if the register number is not entered as prescribed by the Commission.*
 Asha Manju, K.M. v. K.P.S.C. I.L.R. 2010(1) Kerala .. 675
- Public Services (Date for Determination of Age for Eligibility for Appointment) Rules, 1977 (Kerala)—Rule 2**—*Date for determination of age for eligibility— The first day of January of the year in which the notification is issued is the date on which age of the applicant is to be determined.*
 Jiji Vijayan v. K.P.S.C. I.L.R.2010(1)Kerala ..472
- Rationing Order, 1966 (Kerala)—Clause 45(1)**—*The requirement being that the applicant should be normally resident in the ward or area where the ration shop is sanctioned, the residence of the applicant anywhere in the Panchayat area is not sufficient for the purpose of appointment as a Retail Distributor.*
 Amose,D. v. C.Selvaraj I.L.R. 2010(1) Kerala .. 491
- Recovery of Debts due to Banks and Financial Institutions Act, 1993 (Central Act 51 of 1993)—Section 19(22)**—*Recovery proceedings—No period of limitation is prescribed for enforcing the recovery certificate—Income Tax Act, 1961 (Central Act 43 of 1961)—2nd Schedule, Rule 68B.*
 Kutaguptan, K. v. Canara Bank I.L.R. 2010(1) Kerala .. 464
- Registration Rules, 1958 (Kerala)—Rule 67**—*Revenue officials cannot interdict Registration Department from registering documents, without No Objection Certificate from the Revenue Officials.*
 Selvam,M. v. State of Kerala I.L.R. 2010(1) Kerala .. 506
- Regulations Relating to Conditions of Supply of Electrical Energy, 1990 (Kerala)—Clause 1(n)**—*In order to calculate the connected load, there should be evidence to show that energy consuming devices were connected to the system.*
 K.S.E.B. v. Dr. S. Vidya Prakash I.L.R. 2010(1) Kerala .. 323
- Regulations Relating to Conditions of Supply of Electrical Energy, 1990 (Kerala)—Clause 42(d)**—*Excess consumption can be billed at three times the rates applicable to the "respective tariff" of consumption for the past six months.*

- K.S.E.B. v. Dr. S. Vidya Prakash I.L.R.2010(1)Kerala .. 323
- Reserve Bank of India Act, 1934 (Central Act 2 of 1934)**—*Chapter III B— There is no conflict between the provisions of Chapter IHB of the R.B.I. Act and the provisions of the Kerala Money Lenders Act —The provisions of Chapter IIIB of the R.B.I. Act are intended to protect the depositors, whereas the provisions of the Money Lenders Act are essentially to protect borrowers.*
M/s Sundaram Finance Ltd. v. State of Kerala I.L.R. 2010(1) Kerala .. 201
- Revenue Recovery Act, 1968 (Kerala Act 15 of 1968)**—*Section 44— Effect of engagements and transfers by the defaulter—Provisions of Section 44 will apply only to cases where the property is conveyed to another after service of written demand on the defaulter or where the property is transferred with the intention to defeat recovery of arrear of public revenue due on land or where the transfer is to near relatives or for grossly inadequate consideration.*
Thankamma Joseph v. State of Kerala I.L.R. 2010(1) Kerala .. 378
- Right to Information Act, 2005 (Central Act 22 of 2005)**—*Section 2(d) — Public authority—Aided college is a public authority as defined in Section 2(d)—Provisions of Right to Information Act is applicable to aided college.*
Lee, V. S. v. State of Kerala I.L.R. 2010 (1) Kerala .. 606
- Service—Deputation—Deputation means service outside the cadre or outside the parent department—There can be no deputation without consent of the person to be deputed.**
Marymol, T.P. v. Director General, CISF I.L.R. 2010(1) Kerala .. 126
- Service—Age relaxation—Physically challenged candidates belonging to other backward community cannot claim age relaxation under both heads—They can claim age relaxation of 3 years either as a physically challenged candidate or as a candidate from other backward community.**
Praveen, A. v. High Court of Kerala I.L.R.2010(1)Kerala .. 361
- Service—Junior Senior fixation of pay—Senior in cadre need not always draw higher salary than junior in cadre—Stepping up of pay will be granted only if the anomaly in pay fixation is consequent to pay revision order or pay fixation under Rule 28A of K.S.R.**
G.C.D.A. v. Shanavas,A.M. I.L.R.2010 (1)Kerala ..405
- Service—Disciplinary proceedings—It is for the Enquiry Officer, and not for disciplinary authority, to decide whether adjournment of**

- enquiry should be granted— Enquiry Officer shall not act under dictation of the disciplinary authority.*
Punjab National Bank v. Prabhakaran, K. I.L.R. 2010(1) Kerala .. 525
- Service—Disciplinary proceedings—Court will not permit management to conduct de novo enquiry several years after the incident which gave rise to the allegations.**
Punjab National Bank v. Prabhakaran, K. I.L.R.2010(1)Kerala .. 525
- Service—Appointment as Reader in University—Teaching experience attained as a regular teacher after acquiring the qualification of Ph.D. alone can be counted—Experience gained as Guest Lecturer cannot be reckoned as teaching experience.**
Vasundhara, G. v. Dr. Sallas Benjamin I.L.R. 2010(1) Kerala ..531
- Service—Disciplinary proceeding—Where the delinquent has not raised any objection that copy of enquiry report was not supplied to him, he cannot urge that ground in Writ Petition—Delinquent should prove that he was prejudiced by non-receipt of the enquiry report —High Court will interfere only on being satisfied that delinquent was prejudiced due to failure to give copy of enquiry report.**
High Court of Kerala v. Mohammed Faisal I.L.R. 2010(1) Kerala .. 685
- Service Law—Public Service Commission—Wrong mentioning of category code in application—Rejection of the application by the Public Service Commission cannot be termed as illegal.**
Neena, N. K. v. Kerala Public Service Commission I.L.R.2010 (1)Kerala 927
- Service Rules, 1959 (Kerala)—Part III, Rule 3, Note 3—The liability of an employee should be quantified before retirement—Such quantification can be put off only if it becomes impossible on account of pendency of criminal or disciplinary proceeding.**
State of Kerala v. Purushothaman, A. T. I.L.R. 2010 (1) Kerala .. 262
- Service Rules, 1959—Part I, Chapter XI—Foreign service—Pay drawn by an officer deputed to Foreign service cannot be treated as emoluments for the purpose of computing terminal benefits—Only pay, which the officer would have drawn, had he continued in the parent department, can be reckoned for computing terminal benefits—Part III, Rule 62.**
Dr. Surendran, V. v. State of Kerala I.L.R. 2010(1)Kerala .. 311
- Service Rules, 1959 (Kerala)—Part III, Rule 14 E—Qualifying Service —Aided School Service put in by K.S.E.B. employees prior to their entry in the Service of K.S.E. Board, should be reckoned as qualifying service for the purpose of terminal benefits.**
Abdul Jabbar, P.M. V.K.S.E.B. I.L.R.2010(1)Kerala .. 536

- Service Rules, 1959 (Kerala)—Part-III, Rule 56—Voluntary retirement**
—If the appointing authority do not refuse permission for voluntary retirement before the date chose by the employee for retirement, the employee should be deemed to have retired on the date chosen by him—If the appointing authority is of the opinion that voluntary retirement cannot be given the matter should be referred to the Government and the factum of reference intimated to the employee before the date chosen by the employee for his retirement.
 Venugopal v. State of Kerala I.L.R. 2010 (1) Kerala .. 867
- State & Subordinate Services Rules, 1958 (Kerala)—Part II, Rule 10(b)(iii)—P.S.C. is competent to invoke the powers under Rule 10(b)(iii)—Reference to 'Government' in the rule is to be construed as reference to PS. C.**
 Rahumath,S. v. K.P.S.C. I.L.R. 2010(1) Kerala .. 1
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 Babu, M. v. K.S.E.B. I.L.R. 2010(1) Kerala .. 384
- State & Subordinate Services Rules, 1958 (Kerala)—Part II, Rule 9—Provisional sweeper sponsored by Employment Exchange appointed for 179 days—She is entitled to be regularised in service, as even service of casual sweepers appointed by Head of Office, without reference to Employment Exchange, have been regularised by the Government.**
 Sub Inspector of Police v. Girija, S. I.L.R. 2010(1) Kerala .. 513
- State and Subordinate Services Rules,1958 (Kerala)—Part I, Rule 17(2)—Communal reservation—38th turn is allotted to SIUC/Anglo Indian and 60th turn is allotted to Other Backward Classes put together—Pursuant to interim order of Apex Court, PSC issuing U. O. Note dated 12-4-2005 to advice candidates as per the above turn—In the meeting held on 19-4-2005, PSC deciding to restrict the operation of the order only to ranked lists which came into force after 19-4-2005—PSC has to follow it's order dated 12-4-2005 in respect of all ranked lists which are in force as on that date and cannot restrict operation of the order to lists which came into force after 19-4-2005.**
 Remani,C. v. K.P.S.C. I.L.R. 2010(1) Kerala .. 792

- State and Subordinate Services Rules, 1958 (Kerala)**—*Part II, Rule 27(c)*—*Seniority from the date of advice—If the candidate could not have been appointed within three months from the date of appointment order due to his own fault, candidate cannot claim seniority from the date of advice.*
Dr. Dineshan Kunimal v. Government of Kerala I.L.R. 2010(1) Kerala.. 743
- Telegraph Act, 1885 (Central Act 13 of 1885)**—*Section 7B*—*Section 7B bars jurisdiction of Civil Court to entertain a suit questioning the correctness of a telephone bill.*
Subaida Ashraf v. District General Manager I.L.R. 2010 (1) Kerala ..181
- Telegraph Act, 1885 (Central Act 13 of 1885)**—*Section 10(d)*—*Compensation for damage to property due to drawing of electric line—Property owner has to approach the District Court claiming compensation, if he feels that the compensation awarded by the Tahsildar is insufficient.*
Sukumaran, P. G. v. Power Grid Corporation I.L.R. 2010 (1) Kerala .. 825
- Telegraph Act, 1885 (Central Act 13 of 1885)**—*Section 16*—*Power Grid Corporation has been invested with authority under Section 16 to enter upon any property and draw electric line through it.*
Sukumaran, P. G. v. Power Grid Corporation I.L.R. 2010(1) Kerala .. 825
- Transfer of Property Act, 1882 (Central Act 4 of 1882)**—*Section 58(2)*—*Mortgage by deposit of title deeds—If the creditor is already in custody of the title deed, in order to create mortgage by deposit of title deed, it is not necessary to give it back to the debtor and then take it from him—There can be constructive deposit of title deeds to create mortgage.*
Balan, N. v. Devaki R. Nayar I.L.R. 2010 (1) Kerala .. 653
- Transfer of Property Act, 1882 (Central Act 4 of 1882)**—*Section 52*—*Lis pendens—Suit for declaration of title pending—Defendant alienating property to another—'Pendente lite' transferee is not entitled to get an order of injunction against the plaintiff—Any such transfer is prima facie mala fide—It is immaterial whether there was any order of interim injunction restraining the defendant from alienating the property.*
Anantha Pai v. Gopala Pai I.L.R. 2010(1) Kerala .. 715
- Transfer of Property Act, 1882 (Central Act 4 of 1882)**—*Section 58 (f)*—*Equitable Mortgage by deposit of title deeds—An agreement to create mortgage is not compulsorily registerable but if mortgage is created by that document, such document is compulsorily*

- registerable—Registration Act, 1908 (Central Act 16 of 1908)—Section 17.*
 Allahabad Bank v. Ley Bros I.L.R. 2010 (1) Kerala .. 679
- University Grants Commission Act, 1956 (Central Act 3 of 1956)—**
Sections 2(f) and 22—National University of Advanced Legal Studies (NUALS) being a University as defined in Section 2(f), entitled to confer degree as provided in Section 22, the Mahatma Gandhi University cannot refuse to issue Eligibility Certificates to the students of NUALS stating the reason that NUALS has not been listed in the handbook published by the Association of Universities.
 Asok Chacko Thomas v. M.G. University I.L.R. 2010(1) Kerala .. 55
- Wildlife (Protection) Act, 1972 (Central Act 53 of 1972)—Sections 2, 9, 39 and 57—Offences under the Wildlife (Protection) Act are to be viewed very seriously, even while considering bail applications filed by the accused involved in grave offences under the Act—Every citizen has a duty to protect wildlife—Need to educate villagers and persons residing near forest areas about the importance of protecting wildlife, highlighted—Constitution of India—Article 51A(g).**
 Ramesh v. State of Kerala I.L.R. 2010 (1) Kerala .. 727
- Words and Phrases— 'Suicide'—Explained with reference to authorities—The causes which drive a person to commit suicide are varied and at times obscure.**
 Mony v. State of Kerala I.L.R. 2010(1) Kerala .. 234

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