

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WA.No.40 of 2015 IN WP(C).28972/2013

AGAINST THE ORDER/JUDGMENT IN WP(C) 28972/2013 of HIGH COURT OF
KERALA DATED 17-11-2014

APPELLANT/THIRD PARTY:

M.C.MATHEW
S/O.LATE CHACKO, MANKUZHAKARI SHINE NIVAS
THANNEERMUKKOM P.O., CHERTHALA
ALAPPUZHA DISTRICT - 688 527.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 3 AND
ADDL. RESPONDENTS 4 TO 7 IN W.P(C):

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1. A.A.GEORGE
VALIYAKARIYIL HOUSE, THANNEERMUKKOM P.O.
ALAPPUZHA DISTRICT - 688 527.
 2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
INDUSTRIES (F) DEPARTMENT, SECRETARIAT
THIRUVANANTHPAURAM - 695 001.
 3. DIRECTOR OF COIR DEVELOPMENT,
DIRECTORATE OF COIR DEVELOPMENT, COIR BHAVAN
NANDAVANAM, PALAYAM, THIRUVANANTHAPURAM - 695 033.
 4. THANNEERMUKKOM WEST C.V.C.S LTD. NO.A-833,
THANNERKUMMOM P.O., ALAPPUZHA, PIN - 688 527
REPRESENTED BY ITS SECRETARY.
 5. K.J.SUNNY, AGED 54 YEARS
S/O.JOSEPH, KARTHANAM VEEDU, VARANAD P.O.
CHERTHALA, ALAPPUZHA DISRICT - 688 543.
 6. PROJECT OFFICER (COIR),
COIR PROJECT OFFICE, COIR CORPORATION BUILDING
ALAPPUZHA - 688 001.

(CNTD.....2)

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7. COIR INSPECTOR,
SOUTH CIRCLE ALAPPUZHA AND RETURNING OFFICER
FOR ELECTION TO THE THANNEERMUKKOM WEST C.V.C.S LTD.NO.A 833
COIR PROJECT OFFICE, COIR CORPORATION BUILDING
ALAPPUZHA, PIN - 688 001.

8. COIR INSPECTOR,
POOCHAKKAL CIRCLE, POOCHAKKAL P.O., ALAPPUZHA DISTRICT
PIN - 688 526.

R1 BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY

R1 BY ADV. SMT.N.SANTHA

R1 BY ADV. SRI.K.A.BALAN

R1 BY ADV. SRI.PETER JOSE CHRISTO

R1 BY ADV. SRI.S.A.ANAND

R2 & R3 BY SENIOR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER

R5 BY SRI.M.SASINDRAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 13th day of January, 2015.

J U D G M E N T

Antony Dominic, J.

This appeal is filed against the judgment of the learned Single Judge in W.P(C).No.28972/2013. The appellant is a member of the 4th respondent-Co-operative Society. By Ext.P3, the committee of the Society was superseded. The 1st respondent thereupon filed the writ petition challenging Ext.P3. By the impugned judgment, finding that the requirement of consultation in terms of Section 32(2) of the Kerala Co-operative Societies Act was not complied with, the learned Single Judge set aside Ext.P3 and ordered that the committee of the Society shall be restored in office. In this appeal filed, after obtaining leave from this Court, the appellant is challenging the said judgment.

2. We heard the learned counsel for the appellant and learned counsel for the 1st respondent and learned Government Pleader appearing for the official respondents.

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3. Section 32(2) of the Kerala Co-operative Societies Act provides that the Registrar shall consult the financing bank and Circle Co-operative Union as the case may be, before passing an order of supersession under Section 32(1) of the Act. There is no dispute to the fact that before issuing Ext.P3 the Circle Co-operative Union was not consulted. This rendered Ext.P3 illegal and if Ext.P3 is illegal, the necessary consequence is that the committee which was thrown out from office should be restored in office. This precisely is what the learned Single Judge has ordered. This is all the more so, in view of the provisions contained in Rule 139(3) of the Kerala Co-operative Societies Rules, the functions of the Circle Co-operative Union, which includes offering of views on matters relating to supersession of committees.

4. We also notice from the judgment under appeal that the learned Single Judge left it open to the department to take action against the Society in accordance with law. Therefore, if the appellant has a complaint that the Department is remaining inactive, it is open to him to take the advantage of the observations made by the learned Single Judge for

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redressal of his grievance. In such circumstances, we do not find any illegality in the view taken by the learned Single Judge.

The appeal necessary fails and accordingly dismissed.

**Sd/-
ANTONY DOMINIC,
Judge.**

**Sd/-
ALEXANDER THOMAS,
Judge.**

Bkn/-

// True copy //

P.A. to Judge