

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

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

**FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936**

**WA.No. 194 of 2015 () IN WP(C).2770/2015**  
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**AGAINST THE ORDER/JUDGMENT IN WP(C) 2770/2015 of HIGH COURT OF KERALA  
DATED 28-01-2015**

**APPELLANT(S)/WRIT PETITIONERS:**  
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- 1. THANKAMANI  
(M NO.6850) VRINDA BHAVAN, VARAVILA, CLAPPANA  
OACHIRA, KOLLAM**
- 2. REYMOND CARDOZ (M NO.11878)  
GD BUNGLOW, CLAPPANA SOUTH, OACHIRA  
KOLLAM**
- 3. USHA UNNIKRISHNAN(M NO.11878)  
AAKULANGARA, CLAPPAN EAST, CLAPPANA  
OACHIRA, KOLLAM**
- 4. SARASUDEVI (M NO.12958)  
PUTHANPUTHUVAL FISH FARM AALUMPEEDIKA, CLAPPANA  
OACHIRA, KOLLAM**
- 5. SHAJI (M NO.9321)  
AALUMTHARA PADEETHATHIL PRAYAR SOUTH, AALUMPEEDIKA  
CLAPPANA, OACHIRA, KOLLAM**
- 6. RADHA KRISHNAN(M NO.8528)  
RAJ BHAVAN, AALUMPEEDIKA, CLAPPANA  
OACHIRA, KOLLAM**
- 7. MADHUSOODANAN (M NO.5942)  
THUNDIL THURAYIL, PRAYAR SOUTH, AALUMPEEDIKA  
CLAPPANA, OACHIRA, KOLLAM**
- 8. UTHAMAN (M NO.6494) CHATHAPALLIL LAKSHAM VEEDU  
PERUNADU, CLAPPANA, OACHIRA  
KOLLAM**

**BY ADVS.DR.K.P.PRADEEP  
SRI.K.N.VIKRAMADITHYAN PILLAI**

**RESPONDENT(S)/RESPONDENTS:**

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1. STATE OF KERALA  
REPRESENTED BY SECRETARY, DEPARTMENT OF CO-OPERATION  
GOVERNMENT SECRETARIAT, THIRUVANANATHAPURAM- 695001
2. CLAPPANA SERVICE CO-OPERATIVE BANK LTD NO.867  
CLAPPANA P.O., VIA OACHIRA  
KOLLAM REPRESENTED BY ITS SECRETARY
3. THE RETURNING OFFICER  
THE ASSISTANT REGISTRAR OF CO-OPERATIVE  
SOCIETIES (GENERAL) KARUNAGAPALLY  
KOLLAM
4. THE JOINT REGISTRAR  
(CO -OPERATIVE SOCIETIES) JR OFFICE, KOLLAM
5. THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION  
CO-BANK TOWERS, THIRUVANANTHAPURAM
6. THE STATION HOUSE OFFICER  
OACHIRA POLICE STATION, OACHIRA, KOLLAM
7. MR. SURESH,  
SECRETARY, COMMUNIST PARTY OF INDIA  
(MARKIST) LOCLA COMMITTEE, CLAPPANA OACHIRA, KOLLAM

BY SPL.GOVERNMENT PLEADER SRI.D.SOMASUNDARAM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-01-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ANTONY DOMINIC & ALEXANDER THOMAS, JJ.**  
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**Writ Appeal No. 194 of 2015**  
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**Dated this the 30<sup>th</sup> day of January, 2015**

**J U D G M E N T**

Antony Dominic, J.

Petitioners in WP(C) No.2770/15 are the appellants. They filed the writ petition challenging Ext.P12 order of the 5<sup>th</sup> respondent to the extent it denied them to file their nominations to the election to the managing committee of the 2<sup>nd</sup> respondent Bank, which is now scheduled to be held on 01/2/15. By the impugned judgment, the learned single Judge relegated the appellants to pursue their remedies in an election petition. It is this judgment, which is under challenge before us.

2. We heard the learned counsel for the appellants and the learned special Government Pleader appearing for respondents 1 and 3 to 6.

3. The only question to be considered is whether the learned single Judge was justified in relegating the appellants to pursue the remedies as provided under the Kerala Co-operative Societies Act instead of entertaining the writ petition. We notice from Ext.P12 that on a complaint made by the appellants and another alleging that

they were prevented from submitting their nominations, pursuant to the directions of this Court in the judgment in WP(C) No.2108/15, the 5<sup>th</sup> respondent conducted an enquiry. In that enquiry, he was satisfied that one Mr.Sajeed was obstructed from filing his nomination and therefore in Ext.P12, the 5<sup>th</sup> respondent ordered that he will be given an opportunity to submit his nomination and contest the election. However, in so far as the remaining complainants are concerned, the 5<sup>th</sup> respondent was not satisfied about the genuineness of the complaint made.

4. Though the learned counsel for the appellants seriously contended that the conclusions in Ext.P12 are incorrect and contrary to the evidence that they have produced in this writ petition, fact remains that, to accept the contention of the learned counsel, adjudication of disputed questions of fact is necessary. Such an adjudication is impermissible in a petition under Article 226 of the Constitution of India. Therefore, learned single Judge was fully justified in relegating the appellants to pursue their remedies under the Kerala Co-operative Societies Act itself. That apart, as rightly observed by the learned single Judge, this Court shall loathe interference in election matters once election

machinery has started to move. We do not find any illegality in the judgment under appeal.

5. Writ appeal is dismissed.

Needless to say that all contentions raised in the appeal are left open to be adjudicated in the proceedings to be instituted under the Act.

Sd/-  
**ANTONY DOMINIC  
JUDGE**

Sd/-  
**ALEXANDER THOMAS  
JUDGE**

Rp

//True Copy//

PA to Judge