

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 20433 of 2014 (D)

PETITIONER(S)/PETITIONERS:-:

1. BENCY S., AGED 45 YEARS
S/O.SUKUMARAKURUP, GS LAND, MAVINMOODU
KALLAMBALAM P.O., VARKALA, THIRUVANANTHAPURAM DISTRICT.
2. T.RADHAKRISHNA PILLAI, AGED 55 YEARS
S/O.THANKAPPAN PILLAI, VILAYIL VEEDU, PANAYARA P.O.
VARKALA, THIRUVANANTHAPURAM - 695 145.

BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN
SRI.T.S.PRASANNAKUMAR

RESPONDENT(S)/RESPONDENTS:-:

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
DEPARTMENT OF CO-OPERATION, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
2. KERALA STATE CO-OPERATIVE ELECTION COMMISSION,
CO-BANK TOWERS, TRIVANDRUM - 695 001.
3. ELECTORAL OFFICER,
ELECTION TO THE MANAGING COMMITTEE OF CHEMMARUTHY SERVICE
CO-OPERATIVE BANK LTD.NO.T-328
TRIVANDRUM
O/O ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G)
CHIRAYINKIL, THIRUVANANTHAPURAM - 695 145.
4. RETURNING OFFICER,
ELECTION TO THE MANAGING COMMITTEE OF CHEMMARUTHY SERVICE
CO-OPERATIVE BANK LTD.NO.T-328
(KALLAMBALAM UNIT INSPECTOR)
O/O ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
CHIRAYINKIL, THIRUVANANTHAPURAM - 695 145.
5. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
THIRUVANANTHAPURAM - 695 001.

6. ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
CHIRAYINKIL, TRIVANDRUM.
7. CHEMMARUTHY SERVICE CO-OPERATIVE BANK LTD.NO.T-328,
PANAYARA P.O., VARKALA, TRIVANDRUM
REPRESENTED BY ITS SECRETARY.
8. LATHA B.,
W/O.SURENDRAN, GS LAND, PRAALEYAGIRI
THOKKADU P.O., VARKALA P.O.
THIRUVANANTHAPURAM - 695 141.
9. PART-TIME ADMINISTRATOR,
CHEMMARUTHY SERVICE CO-OPERATIVE BANK LTD.NO.T-328
(CHIRAYINKIL UNIT INSPECTOR)
O/O ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
CHIRAYINKIL, THIRUVANANTHAPURAM - 695 145.
- ADDL.10. B.JAYAPRAKASH, 'BHASKAR', MUTTAPPALAM P.O.
VARKALA, TRIVANDRUM.
- ADDL.11. SRI.P.IJAYAN, VILAYIL VEEDU, MUTTAPPALAM P.O.
VARKALA, TRIVANDRUM.
- ADDL.12. SRI.S.MANOCHARAN UNNITHAN, AYYAPPANVILA, KOVOOR,
PALAYAMKUNNU P.O., VARKALA, TRIVANDRUM.

(ADDL. RESPONDENTS 10 TO 12 ARE IMPEADED AS PER ORDER DATED
26.8.2014 IN I.A.NO.11507 OF 2014)

R8 BY ADV. SRI.P.N.MOHANAN
R2 BY ADV. GOVERNMENT PLEADER SRI.GIKKU JACOB.
R10-R12 BY ADV. SRI.GEORGE POONTHOTTAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-03-2015 ALONG WITH W.P.(C) No.30917/2014, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. THE TRUE COPY OF THE NOTIFICATION PUBLISHED IN NEWSPAPERS.

EXHIBIT P2. THE TRUE COPY OF THE DISQUALIFICATION ORDER DATED 18.07.2014.

EXHIBIT P3. THE TRUE COPY OF THE LIST OF 40 CANDIDATES WHOSE
NOMINATIONS WERE FOUND TO BE VALID PUBLISHED BY THE
RETURNING OFFICER ON 01.08.2014.

EXHIBIT P4. THE TRUE COPY OF THE ORDER DATED 02.08.2014 CANCELLING THE
POLLING.

EXHIBIT P4(a) THE TRUE COPY OF THE ORDER DATED 2.8.2014 ISSUED BY
THE SECOND RESPONDENT ELECTION COMMISSION CANCELLING THE
ORDER DATED 5.7.2014.

EXHIBIT P5. THE TRUE COPY OF THE PROCEEDINGS EVIDENCING THE DISMISSAL OF
THE HUSBAND OF THE 8TH RESPONDENT.

EXHIBIT P6. THE TRUE COPY OF THE REPRESENTATION DATED 04.08.2014.

EXHIBIT P7: TRUE COPY OF THE ORDER DATED 11.8.2014 APPOINTING
ADMINISTRATIVE COMMITTEE.

RESPONDENT(S)' EXHIBITS

EXT.R8(a) A TRUE COPY OF THE RELEVANT PAGE OF THE VOTERS LIST.

EXT.R8(b) A TRUE COPY OF THE RELEVANT PORTION OF THE VOTERS LIST
OF WARD NO.46

EXT.R8(c) A TRUE COPY OF THE LIST OF DECEASED MEMBERS AND PERSONS
INCLUDED FROM THE OUTSIDE THE AREA OF OPERATION.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) Nos.20433 & 30917 of 2014

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioners contend that the proposed amendment of the bye-laws of the Society tends to alter its composition. Such alteration of composition by the administrative committee is deprecated in Joint Registrar of Co-operative Societies v. T.A.Kuttappan [2000 (2) KLT 480 (SC)]. No doubt the general body of the Society has successfully carried out the amendment of the bye-laws. The parties are however at variance as to whether the amendment was approved by the general body lawfully. But then whether such amendment could be registered or not in the light of T.A.Kuttappan's case (supra) deserves consideration. The matter is engaging the attention of the Joint Registrar for granting registration of the amendment.

2. I direct the Joint Registrar of Co-operative Societies to take a final decision on this aspect. The same shall be done with notice to the petitioners and other affected parties within one month. The administrative committee shall also take steps for the conduct of election soon thereafter.

Needless to say that any active members and dead members shall be removed from the voters list. The amended provisions of the Kerala Co-operative Societies Act and the Rules framed thereunder shall be adhered to in the exercise. Every endeavour shall be made to conduct the election within an outer period of 5 months after the Joint Registrar applies his mind to the issue.

The writ Petitions are disposed of as above.

Sd/-
V.CHITAMBARESH,
Judge.

nj.