

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 26129 of 2014 (M)

PETITIONER:

**A.P.BALAKRISHNAN
ALANPADATH HOUSE, CHANGALERI P.O
MANNARKKAD, PALAKKAD.**

**BY ADVS.SRI.P.RAVINDRAN (SR.)
SRI.SREEDHAR RAVINDRAN**

RESPONDENTS:

- 1. KERALA STATE CO-OPERATIVE ELECTION COMMISSION
REPRESENTED BY ITS CHIEF ELECTION COMMISSIONER
THIRUVANANTHAPURAM-695 001.**
- 2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL)
PALAKKAD - 678 582**
- 3. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
MANNARKKAD, PALAKKAD 678 582**
- 4. KUMARAMPUTHUR SERVICE CO-OPERATIVE BANK LTD.NO.373
KUMARAMPUTHUR, P.O. MANNARKKAD COLLEGE
PALAKKAD 678 583**

*** ADDL. R5 IMPEADED**

- 5. THE ADMINISTRATIVE COMMITTEE
KUMARAMPUTHUR SERVICE CO-OPERATIVE BANK LTD. NO. 373
KUMARAMPUTHUR P.O., MANARKKAD COLLEGE
PALAKKAD - 678 583**

*** ADDL. R5 IMPEADED AS PER ORDER DATED 10.10.2014 IN I.A. NO.
13681/2014**

**R1 TO R3 BY GOVERNMENT PLEADER SRI. GIKKU JACOB
R4 & R5 BY ADVS. SRI.B.S.SWATHY KUMAR
SRI.REMYA MURALI
SRI.A.K.RAJESH
SRI.VENKATESH GOPI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-02-2015, ALONG WITH W.P.(C). NO. 3033/2015 THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT
SUPERSEDING THE BOARD OF DIRECTORS DATED 16-12-2013
- EXT.P2 - TRUE COPY OF THE ORDER DATED 16-12-13
- EXT.P3 - TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED
26-08-2014
- EXT.P4 - TRUE COPY OF THE DECISION OF THE BOARD OF DIRECTORS
DATED 5-9-2014
- EXT.P5 - TRUE COPY OF THE RESOLUTION OF THE BOARD OF DIRECTORS
DATED 5-9-2014
- EXT.P6 - TRUE COPY OF THE COMMUNICATION OF THE MANAGER
A.U.P.SCHOOL KUMARAMPUTHUR DATED 3-9-2014
- EXT.P7 - TRUE COPY OF THE COVERING LETTER ADDRESSED TO THE 3RD
RESPONDENT DATED 5-9-2014
- EXT.P8 - TRUE COPY OF THE JUDGMENT IN WPC.NO.24170/14 DATED 20-9-
2014
- EXT.P9 - TRUE COPY OF THE LETTER ADDRESSED BY THE ASSISTANT
REGISTRAR TO THE SECRETARY OF THE 4TH RESPONDENT
SOCIETY DATED 25-9-14
- EXT.P10 - TRUE COPY OF THE DECISION OF THE 1ST RESPONDENT DATED
22-09-2014

RESPONDENT(S)' EXHIBITS:-

- EXT. R4(a)- COPY OF THE COMPLAINT FILED BEFORE THE 5TH RESPONDENT
DATED 6.10.2014
- EXT. R4(b)- COPY THE ORDER NO. 8058/14/O/K.DIS DATED 13.10.2014

/TRUE COPY/

P.A. TO JUDGE

V. CHITAMBARESH, J

**W.P.(C). Nos. 26129 of 2014 &
3033 of 2015**

Dated this the 03rd day of February, 2015

JUDGMENT

The Administrative Committee has been in office since 21.09.2014 and the election to the Managing Committee cannot be delayed. But then the election has to be conducted on ward basis only in accordance with the third proviso to Section 28 of the Kerala Co-operative Societies Act, 1969. This would require the amendment of the bye laws which has been placed before the General Body of the Bank. Ext. P2 notice in W.P.(C). No. 3033/2015 reflects that other items have also been included in the agenda for the meeting.

2. The Supreme Court in **Joint Registrar of Co-operative Societies v. T.A. Kuttappan [2000 (2) KLT 480 (SC)]** has held that the composition of the society shall not be altered by the Administrator/Administrative Committee. Therefore the other items included in the agenda in Ext.P2 notice shall be deferred till a new Managing Committee assumes office. Only the question of amendment of the bye laws to enable the election being conducted on ward basis shall be mooted in the meeting. The Joint Registrar shall accord approval for the amendment of the bye laws if the

motion is successfully carried through.

3. The voters list now requires to be pruned in accordance with Rule 18A of the Kerala Co-operative Societies Rules, 1969 (for short the 'Rules') as well. The needful shall be done by the Administrative Committee and resolution passed to conduct the election soon. Needless to say that the Administrative Committee shall pass the resolution in terms of Rule 35A of the Rules within a period of six weeks. The Joint Registrar shall see to it that a new Managing Committee assumes office within a span of four months from today.

The writ petitions are disposed of. No costs

**V. CHITAMBARESH
JUDGE**

DCS