

# KERALA HIGH COURT

Hon'ble Justice V. R. Krishna Iyer

## KUMARAKOM CENTRAL INDUSTRIAL COOPERATIVE SOCIETY v. DISTRICT COLLECTOR, KOTTAYAM

Citation: 1969 KHC 72 : 1969 KLT 318 : 1969 KLR 501

### ORDER

1. The present revision case provokes the thought that where the words of a statute do not fully carry out its apparent intendment, only the Legislature, and not the court, can set things right.

2. The revision petitioner in all these cases is a cooperative society viz., The Kumarakom Central Industrial Cooperative Society Limited No. 2603. It brought several suits in the Sub Court of Kottayam and did not pay court fee on the plaint, taking advantage of the beneficent provisions contained in S.74(1)(iv) of the Kerala Court Fees and Suits Valuation Act 1959, for short, called the Act. The suits were dismissed and appeals were carried to the District Court of Kottayam by the plaintiff society, and there, court fee was ordered to be paid on the appeal memorandum, negating the application of the society praying for a direction to the Collector to pay the court fee as provided for in S.74(1) and (3). The District Court took the view that the exemption from payment of court fee is available only at the suit level and not at the appellate level. On a construction of the provisions of S.74 of the Act this Court has already come to the same conclusion in an unreported ruling of his Lordship Mr. Justice Raman Nayar in CRP. Nos. 729 to 732 of 1968. The view that appealed to his Lordship is based upon the language of the section which mentions suit and plaint as distinguished from and in contrast to appeal and memorandum of appeal and the construction of the section is impeccable, if may say so, with great deference. Therefore, I uphold the order challenged in these revision petitions and I do so, but not without regret.

3. The Constitution of India, in the Directive Principles of State Policy (Part IV) has enshrined certain mandates to the State, calculated to promote the welfare and interests of

workers, members of the Scheduled Castes and Scheduled Tribes, cooperatives etc. Inspired by this high policy this unique piece of legislation. S.74, was enacted the obvious object being to help cooperative societies and the other handicapped classes in litigations generally. The beneficent purpose behind this provision could not have been meant to stop help with the suit and deny it to the ordinary extensions of litigation by way of appeals. So long as remedies for vindication of rights can be normally pursued not merely in the Trial Court but also in the appellate Court, one cannot perceive the basis of granting exemption at the first stage but not the later regular stages of a litigation in the shape of an appeal. After all, if the cooperative movement deserves the special concern and care of the State, beneficent, but relatively inexpensive measures should not be half hearted. However, this is not a matter which should enter the judicial verdict when interpreting a statute where the language is clear, even if it falls short of the spirit behind the provision. My purpose here is to draw the attention of the State to what I feel is an unwitting oversight or lacuna, for suitable legislative action.

4. With these observations, I dismiss the revision petitions. There will be no order as to costs. However, the appellant - society will be allowed one month's time - for which it prays and the State has no objection to pay court fee in the appellate court.