

T.J. Pathrose vs the Kozhikode District Co-Operative Rubber Marketing Society Limited

T.J. Pathrose vs the Kozhikode District Co-Operative Rubber Marketing Society Limited

SooperKanoon Citation : sooperkanoon.com/1283642

Court : Kerala

Decided On : Apr-11-2025

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : RP/1290/2024

Appellant : T.J. Pathrose

Respondent : The Kozhikode District Co-Operative Rubber Marketing Society Limited

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY,
THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947 RP NO. 1283
OF 2024 AGAINST THE JUDGMENT IN WP(C) NO.7091 OF 2024 OF
HIGH COURT OF KERALA REVIEW PETITIONERS/PETITIONERS: 1
THE MALABAR CRUMB RUBBER FACTORY WORKERS UNION,
(HMS) KUPPAYAKODE P.O, KODENCHERRY, KOZHIKODE
DISTRICT, PIN 673580 REPRESENTED BY ITS SECRETARY-
N.M.GOPALAN AGED 65 YEARS, S/O. NAGAN, MUTTILEPARAMBIL

HOUSE, KUPPAYATHODE P.O., KOZHIKODE, PIN - 673580 2 V.K.VELAYUDHAN AGED 60 YEARS S/O. KORAN, VELLIKETTUKUNNUMMEL HOUSE, 25TH MILE, PUTHUPPADY P.O., KOZHIKODE DISTRICT, PIN - 673586 BY ADV SRI.JOHN K.GEORGE RESPONDENTS/RESPONDENTS 1 THE KOZHIKODE DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LIMITED CHEROOTTY ROAD, KOZHIKODE DISTRICT, PIN- 673001 REPRESENTED BY ITS MANAGING DIRECTOR IN CHARGE, SRI. BENNY THOMAS., PIN - 673001 :2: 2 THE MALABAR CRUMB RUBBER FACTORY UNIT OF KOZHIKODE DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LIMITED, CHEROOTTY ROAD, KOZHIKODE DISTRICT, REPRESENTED BY ITS FACTORY MANAGER-IN-CHARGE, SRI. BENNY THOMAS., PIN - 673001 3 THE DEPUTY COLLECTOR, (REVENUE RECOVERY) CIVIL STATION, KOZHIKODE, PIN - 673020 BY ADVS. SRI. ALEX ABRAHAM,STANDING COUNSEL SRI.SURYA BINOY, SR.GOVERNMENT PLEADER THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 17.01.2025 ALONG WITH RP.1290/2024 AND THE COURT ON 11.04.2025 DELIVERED THE FOLLOWING: :3:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947 RP NO. 1290 OF 2024 AGAINST THE JUDGMENT IN WP(C) NO.12226 OF 2023 OF HIGH COURT OF KERALA REVIEW PETITIONERS/RESPONDENTS 1 TO 4 AND 6 TO 41: 1 T.J. PATHROSE AGED 60 YEARS THENMALAYIL HOUSE, THEYYAPARA P.O , KODENCHERY, KOZHIKODE DISTRICT, PIN - 673580 2 K.M MARAKAR AGED 65 YEARS KAMBAKUDI HOUSE, KARIKULAM, KAKKAD P.O., KOZHIKODE DISTRICT, PIN - 673586

3 JOSE MATHEW AGED 60 YEARS MANGALATH HOUSE, KONNATH P.O., 4 SMT. ANCY ANDREWS AGED 63 YEARS LEGAL HEIR OF LATE V.S ANDREW, VELLAPPANATH HOUSE, KONNOTH P.O., 5 K.S.PAUL, AGED 61 YEARS KOLANCHERY HOUSE, P.O KUPPAYAKODE, :4: 6 N.M.GOPALAN AGED 65 YEARS MUTTILPARAMBIL HOUSE, KUPPAYAKODE, KODENCHERY,, PIN - 673580 7 K.T.JOSEPH AGED 63 YEARS KUDIYIRIKAL HOUSE, CHAMAL, THAMARASERY, PIN - 673573 8 K.N. SUKUMARAN NAIR AGED 61 YEARS MAVILAT HOUSE, KUNHIKULAM, 9 T.P. HASSAN AGED 64 YEARS THANKIYEKKALHOUSE, POOLODE, 10 P.U. ULAHANNAN AGED 69 YEARS PARASEERIYIL HOUSE, KUPPAYAKODE, 11 P.P.JOSEPH AGED 71 YEARS PALAKKAMATTAM HOUSE, ENGAPUZHA, 12 I.K.BALAN AGED 63 YEARS KALLUVETTUKUZHIPARAMBIL HOUSE, THAMARASERY, PIN - 673573 13 O.J.MATHAI AGED 61 YEARS URUMBIL HOUSE, KUPPAYAKODE, :5: 14 P.M.THANKACHAN AGED 59 YEARS POTTAYIL HOUSE, KODENCHERY, PIN - 673580 15 P.J.JOHN AGED 63 YEARS PUTHIYEDATH HOUSE, 16 K.J.VARKEY AGED 65 YEARS KOOTTUNKAL HOUSE, KUPPAYAKODE, 17 M.K.PREMANANDAN AGED 61 YEARS MADATHIL HOUSE, ENGAPUZHA, 18 SIBI JOSEPH AGED 49 YEARS VENDANATH HOUSE, KOORACHUNDU,, PIN - 673527 19 P.U VENU AGED 61 YEARS MUTTILPARAMBIL HOUSE, KUPPAYAKODE, 20 V.K.VELAYUDHAN AGED 61 YEARS VALLIKETTUKUNNUMMAL HOUSE, 25TH MILE, PUTHUPADI, PIN - 673586 21 V.A.HUSSAIN AGED 65 YEARS VALLIKETTUMMAL HOUSE, ENGAPUZHA, 22 GEORGE JOSEPH AGED 61 YEARS PUDUSSERIYIL HOUSE, KUPPAYAKODE, :6: 23 M.J. JOSE AGED 60 YEARS MOLEKUNNEL HOUSE, KONNATH P.O., KODENCHERY, PIN - 673580

24 K.M.PAULSOSE AGED 57 YEARS KODIYATH HOUSE, THEYYAPARA P.O , KODENCHERY, KOZHIKODE DISTRICT, PIN - 673580

25 PAUL GEORGE AGED 63 YEARS PULPPARAYIL HOUSE, ENGAPUZHA, 26 P.M TOMY AGED 59 YEARS PULIMALAYIL HOUSE, FACTORYPADI, 27 V.V.BABY AGED 59 YEARS VEMBULLIL HOUSE, KUPPAYAKODE, 28 K.M.SURESH AGED 56 YEARS KOVILATHUMPADI HOUSE, KUPPAYAKODE, 29 M.K.BABU AGED 62 YEARS MALYYEKKAL HOUSE, KUPPAYAKODE, 30 O.L.SOOSA AGED 54 YEARS VAKKATHINAL HOUSE, ENGAPUZHA, :7: 31 V.K.JANARDHANAN AGED 51 YEARS VELLATHARA HOUSE, KUPPAYAKODE, 32 N.J.BIJU AGED 51 YEARS NADUKKARA HOUSE, ENGAPUZHA, 33 P.V.MADESH KUMAR AGED 55 YEARS KARTHIKA HOUSE, KUPPAYAKODE, 34 P.M.GEORGE AGED 58 YEARS PUTHIYEDATH HOUSE, ENGAPUZHA, 35 MANOJ JOSEPH AGED 49 YEARS INDIKKUZHA HOUSE, KUPPAYAKODE, 36 M.P.VINU AGED 46 YEARS MANJUMMELKUDY HOUSE, ENGAPUZHA, 37 GEORGE VARGHESE AGED 60 YEARS VETTUKALLEL HOUSE, ENGAPUZHA, 38 A.J.JOHN AGED 70 YEARS AMIKKATTU HOUSE, ENGAPUZHA, 39 C.HARIDAS AGED 71 YEARS C.U. BUILDING, PULLALLOOR P.O, :8: KARUVATTOOR, PIN - 673611

40 THE SECRETARY MALABAR CRUMB RUBBER FACTORY WORKERS UNION (HMS), KUPPAYAKODE P.O., KODENCHERY, KOZHIKODE DISTRICT, PIN - 673580 BY ADV JOHN K.GEORGE RESPONDENTS/PETITIONER AND RESPONDENTS 5, 42 TO 46: 1 THE KOZHIKODE DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LIMITED CHEROOTY ROAD, KOZHIKODE REPRESENTED BY ITS PRESENT MANAGING DIRECTOR-IN- CHARGE, PIN - 673001 2 THE MALABAR CRUMB RUBBER FACTORY UNIT OF KOZHIKODE DIST.CO-OPERATIVE RUBBER MARKETING SOCIETY LIMITED., CHEROOTY ROAD, KOZHIKODE, REPRESENTED BY ITS FACTORY MANAGER-IN-CHARGE, PIN - 673001 3 P. BALAKRISHNAN MAILAKKATTUKANDY HOUSE, P. O. UNNIKULAM. PUNUR, PIN - 673574 4 THE LABOUR COURT KOZHIKODE, PIN - 673020 5 STATE OF KERALA REPRESENTED BY THE SECRETARY TO

GOVERNMENT, LABOUR AND SKILLS DEPARTMENT,
THIRUVANANTHAPURAM, PIN - 695001

6 THE DISTRICT LABOUR OFFICER KOZHIKODE, PIN - 673020 :9: 7
THE LABOUR COMMISSIONER THIRUVANANTHAPURAM, PIN -
695033 8 THE DEPUTY TAHSILDAR KOZHIKODE TALUK,
KOZHIKODE, PIN - 673001 BY ADVS. SMT.M.M.FATHIMA JALEENA
SMT.SURYA BINOY,SR.GOVERNMENT PLEADER THIS REVIEW
PETITION HAVING COME UP FOR ADMISSION ON 17.01.2025
ALONG WITH RP.1283/2024 AND THE COURT ON 11.04.2025
DELIVERED THE FOLLOWING: : 10 :

N. NAGARESH, J.

..... R.P. No.1283 of 2024 in
W.P.(C) No.7091 of 2024 & R.P. No.1290 of 2024 in W.P.(C) No.12226
of 2023 Dated this the
11th day of April, 2025

ORDER

Both these review petitions arise from the common judgment dated 06.11.2024 in W.P.(C) Nos.12226/2023 and 7091/2024. The writ petitioner in W.P.

(C) No.7091/2024 is the review petitioner in RP No.1283/2024 and respondents 1 to 4 and 6 to 41 in W.P.(C) No.12226/2023 are the review petitioners in RP No.1290/2024.

2. W.P.(C) No.12226/2023 has been filed by the

Kozhikode District Co-operative Rubber Marketing Society Limited as the 1st petitioner and the Malabar Crumb Rubber Factory as the 2nd petitioner. The petitioners sought to quash : 11 : Ext.P13 order passed in CP No.38/2019 of the Labour Court. W.P.(C) No.7091/2024 was filed by the Malabar Crumb Rubber Factory Workers Union (HMS) and another who sought to quash Ext.P4 tender notice and to speed up the revenue recovery steps initiated as per Ext.P3 series.

3. The Labour Court, Kozhikode passed an

Award dated 26.03.2005 in ID No.3/2001 holding that the lock out declared by the Malabar Crumb Rubber Factory was illegal. The workers were held entitled to full wages.

4. Before this Court, the Management submitted

that during the pendency of the litigation, a settlement was arrived at between the Management and the Unions and the settlement stipulated that it was a full and final settlement applicable to all regular workmen, Badly, Casual and Contract workers.

5. This Court noted that a Division Bench of this

Court in WA No.1814/2013 has clarified that if after the Award the parties have arrived at a settlement, the parties will be : 12 : bound by the terms of the said settlement. After considering the judgment in the writ appeal and other issues involved in the writ petitions, this Court concluded that the Labour Court was not justified in proceeding to compute the amounts payable to the workmen pursuant to the Award when there was a subsequent settlement. This Court therefore set aside Ext.P13 order dated 13.04.2021 in CP No.38/2019 and directed the Labour Court to reconsider the claim, giving opportunity to adduce evidence to the petitioners. W.P.(C) No.7091/2024 filed by the Union was dismissed.

6. The review petitioners contend that there are

errors apparent on the face of the records. The review petitioners in RP No.1290/2024 contended that the so-called settlement is a paper work between the Management and namesake unions supporting the Management to defeat the Award in ID No.3/2021. The so-called settlement has no certification and it was so pleaded in the writ petition. The Management owes about 30 Crores for discharging their : 13 : liability to lenders, investors and various Government Institutions. If sale of assets is conducted without reserving the amount due to the workmen, the workers will not be paid their dues.

7. In RP No.1283/2024, the Union contended

that this Court omitted to note that workers are out of employment from 1999 and are fighting for their legal right and therefore direction to reconsider CP No.39/2019 without any condition is not justifiable.

8. I have heard the learned counsel for the review petitioners, the Senior learned Government Pleader representing the Deputy Collector (RR) and the learned Standing Counsel representing the Management.

9. The writ petitions were dismissed / disposed

of setting aside the order of the Labour Court and directing the Labour Court to reconsider the matter. The grounds urged by the petitioners in both these review petitions are arguments on the merits of the case. The review petitioners have not : 14 : pointed out any legal error warranting review of the judgment.

10. When an order of the Labour Court is found

to be incorrect and the issue is remitted back for reconsideration, the workmen cannot claim that before final adjudication of the matter, they should be paid wages especially when the establishment has stopped functioning long back. The grounds urged by the review petitioners do not give any reason for recalling or reviewing the common

judgment.

The review petitions are therefore dismissed. Sd/- N. NAGARESH, JUDGE
aks/09.04.2025

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