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**(1999) 04 KL CK 0015**  
**In the High Court Of Kerala**  
**Case No : W.A. No. 759 of 1999**

Dist. Industries Centre

APPELLANT

Vs

Kaithari Neithu Sahakarana Sangam

RESPONDENT

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**Date of Decision :** 09-04-1999

**Acts Referred:**

**Citation :** (1999) 1 KLJ 885

**Hon'ble Judges :** S. Krishnan Unni, J;A.R. Lakshmanan, J

**Bench :** Division Bench

**Advocate :** K. Ravindranath, Govt. Pleader, for the Appellant; M. Ramachandran, for the Respondent

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## Judgement

A.R. Lakshmanan, J.—Heard Mr. K. Ravindranath, Senior Government Pleader for appellant Mr. M. Ramachandran for respondent. This Appeal has been filed against the order in C.M.P. No. 8593/99 in O.P. 2625/99. The learned single Judge on 1-3-1999 has passed the following order:--

Heard counsel for the petitioner as well as counsel for the respondents. Considering the facts and circumstances of the case, I am of the" view that the request made by the petitioner is justified. Accordingly, the petition is allowed. However it is made clear that as already directed, the Managing Committee will continue till the election is over.

In this case the learned Judge passed the judgment on 5-2-99. The said judgment reads as follows:--

Heard counsel for the petitioner as well as learned Govt. Pleader. Considering the fact that the Managing Committee had already sent requisition for appointing a returning officer and the returning officer has already been appointed, I am of the view, there is no justification for delaying the matter. Date of election was fixed as 25-2-99. Under such circumstance the Returning Officer would conduct the election on 25-2-99.

2. C.M.P. 8593/99 was filed to extend the time granted for conducting the election to the Managing Committee of the respondent society/petitioner in the O.P. atleast 30 days from 25-2-99. The learned Judge on hearing the parties passed the order in the above C.M.P. which has been extracted above. The appeal has been filed by the General Manager (Registrar, District Industries Centre). In so far as the direction given by the learned single Judge in permitting the existing managing committee to continue in office till the election is over, it is submitted that the said direction is against the two Division Bench judgments of this Court in W.A. 1287/92 and W.A. Nos. 626 & 633/99. The Division Bench comprising of M. Jangannadha Rao, C.J., as he then was and Mr. K. Sreedharan, J. in an identical matter set aside the direction issued by the learned single Judge in that case. In the result the direction given by the learned single Judge permitting the then existing Board to continue in management till the election is over and new Board of Directors assumed charge was set aside. Another Division Bench comprising of Om Prakash C.J. and J. B. Koshy, J. in W.A. Nos. 626 & 633/99 have also taken the same view. The submission made before the said bench was that the permission granted by the learned single Judge to continue the existing committee till the new committee takes over charge is totally illegal and therefore the said order is liable to be interfered with. The Division Bench, after relying on the judgment reported in Board of Directors of Kottappady Vs. Joint Registrar and others Service Co-op Bank, held that the permission granted to the existing committee to continue after the expiry of its term till the new committee takes over charge is not sustainable. Another Division Bench comprising of A.R. Lakshmarian, J. and G. Sasidharan, J. in C.M.P. No. 1945/99 in W.A. No. 786/99 have also held that the effect of the order would be to permit the managing committee whose term has already expired to continue in office and therefore the said direction issued by the learned single Judge is liable to be set aside. We are in respectful agreement with the aforesaid rule laid down by the Division Bench in W.A. 1287/92 and W.A. Nos. 626 & 633/99 and the judgment reported in Board of Directors of Kottappady Vs. Joint Registrar and others Service Co-op Bank, .. We therefore set aside that part of the order of the learned single Judge permitting the present managing Committee to continue in office till the election is over. In view of the above order of ours, we direct the Administrator to be in management of the society till the next Board of Directors are elected and the election process is completed. The Administrator will be in charge of the day to day affairs and management of the society and shall not take any policy decision or incur huge expenditure. He shall not make appointments to any post till the next committee take charge. The Administrator shall conduct the election and complete the entire process of election including the declaration of results etc. within two months from today. The time now granted will not be extended on any ground. The appellant shall see that the election is conducted in a fair and proper manner and without giving any room for any complaint from any quarters. Writ Appeal is disposed of on the above terms.