

(2000) 06 KL CK 0039
In the High Court Of Kerala
Case No : O.P. No. 12913 of 1999-K

R. Soman

APPELLANT

Vs

S. Pushparajan and Others

RESPONDENT

Date of Decision : 02-06-2000

Acts Referred:

Citation : AIR 2001 Ker 58 : (2000) 2 KLJ 49

Hon'ble Judges : M.R. Hariharan Nair, J

Bench : Single Bench

Advocate : N. Karunakaran and K.N. Chathukutty, for the Appellant; K.B. Pradeep, for the Respondent

Final Decision : Dismissed

Judgement

M.R. Hariharan Nair, J.—The challenge is with regard to Ext. P1 order of the Arbitrator overruling the objection raised that the election petition filed as Suit No. 3/98 is not maintainable.

2. The contention raised by the petitioner as 8th defendant therein was that the suit was not maintainable for the reason that the Court-fee of Rs. 500/- each has not been paid by the plaintiffs therein. Reliance was placed in that regard on the decision in Peter v. Aravindakshan (1998) 2 K LT 729. After a reference to R. 67(7) of the Co-operative Societies Rules, 1969 which provides that for non-monetary disputes, the Court-fee payable will be Rs. 500/-. It was observed that over and above the said fee, a person who challenges an election, has to affix a Court-fee of Rs. 2/- as well. The petitioner's case is built upon a reference to the words "a person" contained in the said Judgment. According to him, "a person" means each person and depending upon the number of persons in the array of plaintiffs, each of them has to pay Court-fee of Rs. 500/-.

3. On hearing both sides. I find no merit in the said contention. What Rule 67(7) (a)(ii) mandates is that the Court-fee payable for non-monetary disputes shall be Rs. 500/-. If there is only one common prayer for all the petitioners, they need

not pay Rs. 500/-each. There is nothing in Rule 67 which connects the Court-fee payable to the number of petitioners.

4. The aforesaid view finds support from para 10 of the judgment in Peter's case (1998 (2) KLT 729) mentioned in para 2 above as well. It was noted that the petitioners' case therein was that besides setting aside the election, they should also be declared elected in the place of respondents 1 to 5 therein. It was in view of the said special relief applicable to each of the petitioners that the Court found therein that fee of Rs. 500/- each should be paid by each of them.

5. As far as the present case is concerned, the relevant prayer in the Arbitration case was only the following :

"This Hon"ble authority may be pleased to pass an award declaring that election of the defendants 3 to 9 as Committee members is illegal and against the mandatory procedures in Rule 35 and illegally constituted Committee may be set aside."

The other reliefs were only consequential. It can be seen from the above that in the case in hand there was no further prayer for the petitioners that they or any one among them be declared elected in the place of defendants 3 to 9. The relief prayed for by all the petitioners is one and the same, namely, setting aside the election. In the absence of any further prayer specially applicable to each of the plaintiffs they are not bound to pay Court-fee of Rs. 500/-.

6. The petitioner has no case that in addition to Rs. 500/-, the required Court-fee of Rs. 2/- is not paid. The arbitration suit, is therefore, properly filed and it will be disposed of in accordance with law.

O.P. is dismissed.