

(2026) 03 KL CK 0778
In the High Court Of Kerala
Case No : Writ Appeal No. 3019 Of 2025

Thomas M.K

APPELLANT

Vs

Govt. Of Kerala

RESPONDENT

Date of Decision : 25-03-2026

Acts Referred:

Constitution of India, 1950 — Article 13, 246, 254
Banking Regulation Act, 1949 — Section 3

Citation : (2026) 03 KL CK 0778

Hon'ble Judges : N. Nagaresh, J; Johnson John, J

Bench : Single Bench

Advocate : P.C.Haridas, K.Arjun Venugopal, Millu Dandapani, Imam Gregorios Karat

Final Decision : Dismissed

Judgement

N. Nagaresh, J.

1. The appellant, party-in-person, filed W.P.(C) No.16450/2025 seeking to declare that "the Kerala State Co- operative Societies Act, 1969" and "the Kerala State Co-operative Agricultural Development Banks Act, 1984" are unconstitutional and illegal. The appellant also sought to issue a writ of mandamus and to declare that the "Co-operative Arbitration Court" and the jurisdiction made under "the Kerala State Co-operative Societies Act 1969" and "the Kerala State Co-operative Agricultural Development Banks Act, 1984"misused for banking are unconstitutional and illegal and so void from the commencement and enactment of the Acts.

2. Before the learned Single Judge, the appellant urged that the functioning of the Co-operative Bank outside the regulatory framework of the Banking Regulation Act, 1949 is illegal and unconstitutional. Relying on Article 246 of the Constitution of India, the appellant submitted that 'Banking' is a subject in List-I of the 7th Schedule of the Constitution of India and that the enactment of the Kerala Co-operative Societies Act, 1969 and the Kerala State Co-operative

Agricultural Development Banks Act, 1984 enabling banking activity in the co-operative sector, is beyond the legislative competence of the State Legislature.

3. The appellant urged that by virtue of sub-clause (2) of Article 13 of the Constitution of India, any law that takes away or abridges the rights conferred by Part-III of the Constitution shall be void to the extent of contravention. The appellant also relied on Article 254 of the Constitution of India and submitted that where the State law is inconsistent with any Central law, the State law shall be void to the extent of inconsistency. On these grounds, the appellant contended that the Kerala State Co-operative Societies Act, 1969 and the Kerala State Co-operative Agricultural Development Banks Act, 1984 are illegal and unconstitutional.

4. The learned Single Judge considered the arguments raised by the appellant and held that this Court has considered the issue in *Lathif U.A., MLA and another v. State of Kerala and others* [ILR 2023 (4) Kerala 673] and that contention of the petitioner that Co-operative Banks and the Kerala State Co-operative Agricultural and Rural Development (CARD) Bank are functioning without licence and without being regulated in any manner by the Bank Regulation Act, 1949, does not appear to be tenable.

5. The learned Judge further found that the Act contains provisions either excluding the jurisdiction of Civil Courts or granting the power of Civil Court to adjudicating authorities under the Act, cannot be a ground to hold that the provisions are unconstitutional. The exclusion of jurisdiction of Civil Courts is permissible in law. On these premises, the learned Single Judge found that the writ petition is liable to be dismissed in limine and it was ordered accordingly.

6. Aggrieved by the judgment dated 29.10.2025, the appellant has preferred this Appeal. The appellant contends that the banking business comes under the Union List and any Bank can function only as per the law framed by the Union relating to Banking. A Co-operative Society, which comes under a different Entry in the State List cannot be banking business, that may be ultra vires.

7. The appellant would further urge that under the provisions of the Kerala State Co-operative Societies Act, 1969 and the Kerala State Co-operative Agricultural Development Banks Act, 1984 the ordinary remedy of citizen for approaching Civil Court stands excluded. Adjudication has been entrusted with the arbitrators thereby denying the citizens basic right of adjudication by competent Civil Courts. Exclusion of jurisdiction of the Civil Court is also highly illegal, arbitrary and unconstitutional, contended the appellant.

8. The appellant further pointed out that the provisions of the Act, 1969 and the Act, 1984 are used to exploit the common man and certain vested interest are infiltrated with the Co-operative governance system for unconstitutional and illegal banking of Co-operative Societies particularly in the nature of revenue recovery of the farmers and producers. The purpose of the Co-operative Societies is defeated and the Co-operative Societies are functioning creating

debt traps for the members of the Co-operative Society.

9. We have heard the appellant, the learned Government Pleader representing respondents 1 to 4, the learned Central Government Counsel representing the 7th respondent and the respective learned Standing Counsel representing respondents 6 and 8.

10. The issue of illegality of the Co-operative Societies running banking business came up for consideration in the Constitution Bench judgment in *Pandurang Ganpati Chaugule v. Vishwasrao Patil Murgud Sahakari Bank Limited* [(2020) 9 SCC 215]. The Constitution Bench held that in all aspects relating to banking, Co-operative Banks would be the subject matter of regulation under the provisions of the Banking Regulation Act, 1949. Section 3 of the Banking Regulation Act, 1949 was amended as noticed after the judgment of the Hon'ble Apex Court.

11. In the judgment in *Greater Bombay Co-operative Bank Limited. v. United Yarn Tex (P) Limited* [(2007) 6 SCC 236], the Hon'ble Apex Court again considered the issue. The Apex Court held that for the proper financing and effective functioning of the Co-operative Societies, there must also be Co-operative Societies that do banking business to facilitate the working of other Co-operative Societies. Merely because they do banking business, such Co-operative Societies do not cease to be Co-operative Societies, when otherwise they are registered under the Co-operative Societies Act, and are subjected to the duties, liabilities and control of the provisions of the Co-operative Societies Act.

12. As regards the alleged conflict between Entry No.45 in the Union List and Entry No.43 in the State List, the Hon'ble Bombay High Court in *Nagpur District Central Co-operative Bank Limited, Nagpur v. Divisional Joint Registrar, Co-operative Societies, Nagpur* [AIR 1971 Bom 365]]held that Entry No.43 excludes all Co-operative Societies including the trading, banking, insurance and financial Co-operative Societies and those are put in Entry No.32 of List-II. There is no necessity to say that Entry No.43 excludes only non-banking Co-operative Societies, but includes the banking Co-operative Societies. If that were so, when there was no need for Entry No.45.

13. The argument of the appellant that the Co-operative Banks and the Kerala Agricultural Rural Development Banks are functioning without licence and without being regulated in any manner by the Banking Regulation Act, is unacceptable. As regards the exclusion of jurisdiction of the Civil Court alleged by the appellant, as rightly pointed out by the learned Single Judge, the exclusion of jurisdiction of the Civil Court is permissible in law. The grant of specified powers conferred on the Civil Court under the CPC to adjudicating authorities is a common feature in many Statutes. For that reason also, it cannot be said that the Kerala Co-operative Societies Act and the Kerala State Co-operative Agricultural Development Banks Act, 1984 are illegal or ultra vires.

14. We do not find any illegality in the judgment delivered by the learned Single

Judge. We further find that the prayers made by the appellant in the writ petition are in the nature of a public interest litigation. Though the appellant would orally submit that he is highly aggrieved by certain actions of the Co-operative Banks, the petitioner has not made any prayer in the writ petition for redressal of such grievances. The prayer in the writ petition is only to declare certain Acts as unconstitutional. If that be so, the writ petition acquires the status of a public interest litigation. The writ petition has not been filed in compliance of the forms required for filing public interest litigation.

For all the afore reasons, we do not find any merit in the Writ Appeal. The Writ Appeal is therefore dismissed.