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W.P (C) No.10253 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

MONDAY, THE 30TH DAY OF JUNE 2025 / 9TH ASHADHA, 1947

WP(C) NO. 10253 OF 2025

PETITIONER:

THE CHANGANASERRY RUBBER MARKETING CO-OPERATIVE
SOCIETY LTD
NO. K 364 KARUKACHAL P.O, KOTTAYAM,
REPRESENTED BY ITS MANAGING DIRECTOR.,
PIN - 686540

BY ADVS.
SHRI.CHACKO MATHEWS K.
SMT.AISWARIA DEVI R.
SHRI. MATHEWS JOSEPH
SHRI.SREEKUMAR P.N.

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
CO-OPERATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 M.J. SCARIAH,
MADAKKATTU VEEDU, KOTTAMURI P.O,
THRIKKODUTHANAM VILLAGE, CHANGANASERRY,
KOTTAYAM, PIN - 680732



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BY ADVS.
SRI.SHAJI THOMAS
SRI.JEN JAISON
SHRI.THOMASKUTTY SEBASTIAN
SMT.C.S.SHEEJA, SR.GP.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30.06.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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'C.R'

K.BABU, J.

W.P (C) No.10253 of 2025

Dated this the 30th day of June, 2025

JUDGMENT

The challenge in this Writ Petition is to Ext.P4 order passed by the Kerala Co-operative Tribunal, Thiruvananthapuram in Appeal No.330/2024. The petitioner, the Changanacherry Rubber Marketing Co-operative Society, was the appellant.

2. The petitioner filed an appeal under Section 82 of the Kerala Co-operative Societies Act (for short “the Act”) challenging the award dated 17.08.2024 in A.R.C No.207/2020 passed by the Arbitrator attached to the office of the Assistant Registrar of Co-operative Societies (General), Changanacherry.

3. The appeal was filed on 29.10.2024. The period of limitation for filing appeal under Section 82 of the Act is 60 days from the date of award.

4. Admittedly, the award was passed in the presence of the



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petitioner. The Tribunal following **C.K.Damodaran v. Kerala Co-operative Tribunal and Others (1980 KLT 520)** took the view that as the award was passed in the presence of the petitioner/appellant, the time runs from the date of award.

5. The learned counsel for the petitioner submitted that the ratio of the Division Bench in **C.K.Damodaran** is not applicable to the facts of this case as the decision in **C.K.Damodaran** was rendered prior to the amendment to Rule 68 of the Kerala Co-operative Societies Rules, 1969 (for short 'the Rules'). The learned counsel for the petitioner would further submit that in view of Rule 98 of the Rules, certified copy of the award is to be mandatorily filed along with the appeal, and therefore, the time taken for delivering the copy of the award is to be excluded from calculating the period of limitation.

6. The learned counsel for respondent No.2 submitted that the law declared in **C.K.Damodaran** governs the field.

7. Rule 68 of the Rules prior to the amendment in 2000 reads thus:



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“68. Mode of communication of orders and decisions in deciding Disputes.--An award, decision or order passed by the Registrar or any other person deciding the dispute or the arbitrator referred to in S.70 of the Act, shall be sent to the applicant by the Registrar with his seal affixed thereon, by registered post. One copy of the award, decision, or order shall be retained in the file concerned and the same kept in tact for a period of 12 years. A gist of the award shall also be communicated by the Registrar to the defendants, by post in case they are not present at the time of delivering the order or decision.”

8. Interpreting Rule 68 of the Rules (pre-amended Rule), the Division Bench of this Court held that the date of pronouncement of the award in the presence of the parties or the date of communication of the gist of the award to the parties under Rule 68 of the Rules alone would constitute the starting point of limitation for filing an appeal under Section 82 of the Act.

9. Rule 68 of the Rules (after 2000 amendment) reads thus:

“68. Mode of communication of orders and decisions in deciding Disputes.--An award, decision or order passed by the Co-operative Arbitration Court or Registrar or any other person deciding the dispute or



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the Arbitration referred under section 70 of the Act, shall be sent to the applicant by the Court or Registrar, as the case may be, with his seal affixed thereon, by registered post. One copy of the award, decision, or orders shall be retained in the file concerned and same kept in tact for a period of 12 years. The copy of the award/order shall be communicated to the defendants also by registered post."

10. The learned counsel for the petitioner submitted that in the 2000 amendment, the legislature consciously avoided the non-requirement of sending the gist of the award to the defendant if he is present in the open court at the time of pronouncement of the award. It is submitted that even if the award was passed in the presence of the defendant, a copy of the award is to be mandatorily sent or to be delivered, and the time taken for delivering the award is to be excluded for counting limitation or the starting point of limitation would be the date of communication of the gist of the award to the parties.

11. The learned counsel for the petitioner further brought to my notice Rule 98 of the Rules, which mandates that the copy of the



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award shall be filed along with the appeal and since such a requirement is there, the safer and more correct view would be that the time taken for obtaining the certified or attested copy of the order, decision or award, appealed against, is bound to exclude while reckoning the period of limitation for filing appeal. The learned counsel relied on **Thirumarayoor Service Co-operative Bank Ltd v. Mathai and Others (1988 KHC 159)** in support of his contentions.

12. The facts of the present case are different from the facts considered by the Division Bench in **C.K. Damodaran**. The Division Bench pronounced the judgment in the context of the pre-amended Rule 68 of the Rules. In **Thirumarayoor Service Co-operative Bank Ltd v. Mathai and Others**, this Court considered the mandate of Rule 98 of the Rules and held that it only stands to the reason that the time taken for obtaining the copy of the award should be excluded.

13. In view of the mandate of amended Rule 68 and Rule 98 of the Rules, this Court is of the view that the time taken for obtaining copy of the award should have been excluded for computing the



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period of limitation in filing the appeal. Therefore, Ext.P4 award stands set aside. The matter is remitted back to the Tribunal for consideration afresh, in the light of the principles discussed above. Any coercive proceedings initiated against the petitioner shall stand deferred till a decision is taken by the Tribunal.

The Writ Petition is disposed of as above.

Sd/-
K.BABU,
JUDGE

KAS



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APPENDIX OF WP(C) 10253/2025

PETITIONER EXHIBITS

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| Exhibit P1 | TRUE COPY OF AWARD DATED 17.08.2024 IN ARC 207/2020 OF THE COURT OF ASSISTANT REGISTRAR CHAGANACHERRY |
| Exhibit P2 | TRUE COPY OF DELIVERY MANIFEST OF POST WOMAN DATED 13.09.2024 |
| Exhibit P2(a) | TRUE COPY OF PAGE NO. 56 OF THE INWARD REGISTER OF THE PETITIONER |
| Exhibit P3 | TRUE COPY OF MEMORANDUM OF APPEAL NO. 330/2024 FILED BEFORE THE CO-OPERATIVE TRIBUNAL, THIRUVANANTHAPURAM |
| Exhibit P4 | TRUE COPY OF ORDER DATED 31.12.2024 PASSED BY THE CO-OPERATIVE TRIBUNAL, THIRUVANANTHAPURAM |