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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 9TH DAY OF APRIL 2025 / 19TH CHAITHRA, 1947

ARB.A NO. 14 OF 2025 (FILING NO)

AGAINST THE ORDER DATED 24.10.2024 IN AOP NO.30 OF 2023 OF
COMMERCIAL COURT-I, ERNAKULAM

APPELLANT/PETITIONER:

JIMMY ELIAS
AGED 64 YEARS
PATTASSERIL (H) , BHS ROAD, THRIPPUNITHURA.,
PIN - 682301

BY ADVS.
SRI.E.M.MURUGAN
SMT.K.R.LEKSHMI
SRI.P.R.PRATEESH
SRI.P.RAKESH (VAIKOM)
SMT.NILEENA V.P.

RESPONDENTS/RESPONDENTS:

- 1 SMT. ELIZABETH JASMINE
AGED 52 YEARS
497, PEREPARAMBIL, 42, THRIKKANARVATTOM, KOCHI
CORPORATION, ERNAKULAM, RESIDING AT PEREPARAMBIL (H) ,
PUSHPAK ROAD, FR. LOUIS LINE, VADUTHALA, COCHIN-682023,
PIN - 682023
- 2 MRS.K.E.RACHEL



:2:

AGED 47 YEARS

MELEPEEDIKAYIL, THEKKEMALA, KOZHENCHERY, PATHANAMTHITTA. NO
W RESIDING AT ELANJIMOOTIL KANDAYATHIL, PALLIKURUP
P.O, THACHAMPARA, PALAKKAD, PIN - 678593

3

SAM.K.E

AGED 41 YEARS

ELANJIMOOTIL KANDATHIL, THANCHANPARA, PALLIKURUKU P.O,
PALAKKAD DISTRICT REP BY HIS POA HOLDER MRS K.E.RACHEL,
PIN - 678582

4

PATTASSERIL BUISNESS ASSOCIATES LLP

40/81 47 A, NARAKATHARA ROAD , ERNAKULAM REP BY ITS
MANAGING PARTNER, JIMMY ELIAS, S/O CN ELIAS, AGED 58,
PATTASSERIL HOUSE, BHS ROAD, TRIPUNITHURA, PIN - 682035

5

THOMAS KOSHY

PALANIKUNNATHIL (H) AYROOR , NORTH P.O, PATHANAMTHITTA,
PIN - 689612

6

MATHEW PAUL

PATTASSERIL (H) , THRIIPUNITHURA, KOCHI, PIN - 682019

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JAYASANKAR N K

S/O KRISHNA MENON, 600B, NARAKKAT PARAMESWARA VIHAR, 8,
VELYATHAMPARAMBU, NAYARAMBALAM, ERNAKULAM, PIN - 682509

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SASIDHARAN M V

106, GOPALANILAYAM, PATTAMBI, PALAKKAD, PIN - 679303

THIS ARBITRATION APPEALS HAVING COME UP FOR ADMISSION ON
09.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



: 3 :

**DR. A.K.JAYASANKARAN NAMBIAR
&
EASWARAN S., JJ.**

**Arb. Appeal No.14 of 2025 (Filing.No), W.A.No.194 of 2025 (Filing No.),
L.A.App.No.243 of 2017, W.A.No.1571 of 2024, W.A.No.2203 of 2019,
W.A.No.2295 of 2019, W.A.No.1625 of 2024, W.A.No.1641 of 2024, W.A.No.1885
of 2024 (Filing No.), L.A.App.No.16 of 2022 & CMCP.No.2 of 2022 &
L.A.App.No.146 of 2017**

Dated this the 9th day of April, 2025

JUDGMENT

Dr. A.K.Jayasankaran Nambiar, J.

All these matters stand dismissed for default for non-appearance of counsel representing the appellant/petitioner when the matters were called.

2. Noticing the number of matters in respect of which counsel were not present in Court today, we inquired with the learned Government Pleaders who were in court, as regards the reasons for such *en masse* absence of counsel. We were then told that it was probably on account of a call for boycott by the Kerala High Court Advocates' Association that the learned counsel for the appellant/petitioner are not present in court today. We have also been shown a copy of a letter stated to have been written by the President of the Kerala High Court Advocates' Association to the Hon'ble the Chief Justice informing him of the call for a pen down protest by lawyers on 09.04.2025 (today). While the letter in itself is distasteful as regards its contents, it also manifests a serious breach of the decorum that is expected to be maintained in this hallowed institution. Letters addressed by an Association of Advocates to the Chief Justice of the High Court cannot take the form of gratuitous sermons interspersed with veiled threats. Further, the call to lawyers to boycott courts on an issue



: 4 :

concerning enhancement of court fees by the State government cannot be seen as anything but illegal and preposterous. This is more so when we are given to understand that a Public Interest Litigation on the same issue was moved, and is currently pending consideration, before the Chief Justice's Court.

3. As Judges we cannot be party to such calls for boycott that are antithetical to the concept of justice dispensation and have been declared as illegal by the Supreme Court on many an occasion. We might usefully remind the members of the legal fraternity of the decision of the Supreme Court in **Ex-Capt. Harish Uppal v. Union of India and Another - [(2003) 2 SCC 45]** where in the context of examining the legality and propriety of calls for strikes/boycotts by lawyers it was observed:

“[L]awyers have no right to go on strike or give a call for boycott, not even on a token strike. The protest, if any is required, can only be by giving press statements, TV interviews, carrying out of court premises banners and/or placards, wearing black or white or any colour armbands, peaceful protest marches outside and away from court premises, going on *dharnas* or relay fasts etc. Lawyers holding *vakalats* on behalf of their clients cannot not attend courts in pursuance to a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott. No lawyer can be visited with any adverse consequences by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. No Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting must be ignored. Only in the rarest of rare cases where the dignity, integrity and independence of the Bar and/or the Bench are at stake, courts may ignore (turn a blind eye) to a protest abstention from work for not more than one day. However, it will be for the court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench. Therefore in such cases the President of the Bar must first consult the Chief Justice or the District Judge before Advocates decide to absent themselves from court. The decision of the Chief Justice or the District Judge would be final and have to be abided by the Bar. The courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all courts to go on with matters on their boards even in the absence of lawyers. In other words, courts must not be privy to strikes or calls for boycotts. If a lawyer, holding a *vakalat* of a client, abstains from attending court due to a strike call, he shall be personally liable to pay costs which shall be addition to damages which he might have to pay his client for loss suffered by him.”

4. Also relevant are the observations of the Supreme Court in **Krishnakant Tamrakar v. State of Madhya Pradesh - [(2018) 17 SCC 27]** which read as follows:



: 5 :

"49. Since the strikes are in violation of law laid down by this Court, the same amount to contempt and at least the office bearers of the associations who give call for the strikes cannot disown their liability for contempt. Every resolution to go on strike and abstain from work is per se contempt. Even if proceedings are not initiated individually against such contemnors by the court concerned or by the Bar Council concerned for the misconduct, it is necessary to provide for some mechanism to enforce the law laid down by this Court, pending a legislation to remedy the situation.

50. Accordingly, we consider it necessary, with a view to enforce fundamental right of speedy access to justice under Articles 14 and 21 and law laid by this Court, to direct the Ministry of Law and Justice to present at least a quarterly report on strikes/abstaining from work, loss caused and action proposed. The matter can thereafter be considered in its contempt or inherent jurisdiction of this Court. The Court may, having regard to the fact situation, hold that the office bearers of the Bar Association/Bar Council who passed the resolution for strike or abstaining from work, are liable to be restrained from appearing before any court for a specified period or until such time as they purge themselves of contempt to the satisfaction of the Chief Justice of the High Court concerned based on an appropriate undertaking/conditions. They may also be liable to be removed from the position of office bearers of the Bar Association forthwith until the Chief Justice of the High Court concerned so permits on an appropriate undertaking being filed by them. This may be in addition to any other action that may be taken for the said illegal acts of obstructing access to justice. The matter may also be considered by this Court on receipt of a report from the High Courts in this regard. This does not debar report/petition from any other source even before the end of a quarter, if situation so warrants.

In the light of the above declaration of the law, we cannot find it in ourselves to condone instances of non-representation of the cases listed before us today. We therefore dismiss the above cases without prejudice to the right of the litigant to seek restoration of the same within a period of one month from today, on showing sufficient cause for the non-representation today as also by demonstrating their readiness to argue the matter on the day the application for restoration comes up for consideration before this court.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

EASWARAN S.
JUDGE



:6:

APPENDIX OF ARB.A 14/2025

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE LLP AGREEMENT DATED 07/04/2011
Annexure A2	TRUE COPY OF THE ARBITRAL AWARD DATED 27/02/2019 IN AC NO. 1/2019
Annexure A3	TRUE COPY OF THE COMMON ORDER DATED 05/01/2022 IN OP (ARB) NO. 101/2020 AND OP (ARB) NO. 233/2020
Annexure A4	TRUE COPY OF THE ORDER DATED 24/08/2022 IN AR NO. 101/2022
Annexure A5	TRUE COPY OF THE ARBITRAL AWARD DATED 18/04/2023 IN AR NO. 101/2022