

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945
WP(C) NO. 378 OF 2024

PETITIONER:

THOMAS.V.J,
AGED 63 YEARS
S/O JOSEPH, VICE CHAIRMAN, SULTHAN BATHERY,
CO-OPERATIVE URBAN BANK D.2034, SULTHAN BATHERY,
WAYANAD, RESIDING AT VALLAPRAYIL HOUSE, PUTHENKUNNU
P.O, SULTHAN BATHERY, WAYANAD, PIN - 673592

BY ADVS.
P.N.MOHANAN
C.P.SABARI
AMRUTHA SURESH
GILROY ROZARIO

RESPONDENTS:

- 1 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), OFFICE OF THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES, KALPATTA NORTH, WAYANAD,
PIN - 673121

- 2 ADDL.R2
ANUMODH KUMAR .A.A,
AGED 39 YEARS, S/O AYYAPPAN NAIR RESIDING AT AYKARA
VEEDU, THOVARIMALA P.O, SULTHANBATHERY, WAYANAD
[ADDL.R2 IS IMPEADED AS PER ORDER DATED 25.01.2024
IN I.A-1/2024 IN WP(C) 378/2024]

BY ADV M.A.ASIF

SMT C S SHEEJA, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.01.2024, ALONG WITH WP(C).389/2024, 400/2024 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945
WP(C) NO. 389 OF 2024

PETITIONER:

NARAYANANKUTTY.K.K
AGED 67 YEARS
S/O KUMARAN.K.K, MANAGING COMMITTEE MEMBER,
SULTHAN BATHERY CO-OPERATIVE URBAN BANK D.2034,
SULTHAN BATHERY, WAYANAD, RESIDING AT KATTUKUDIYIL
HOUSE, POOTHADI P.O, KENICHIRA, WAYANAD, PIN - 673592

BY ADVS.
P.N.MOHANAN
C.P.SABARI
AMRUTHA SURESH
GILROY ROZARIO

RESPONDENTS:

- 1 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL)
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, KALPATTA NORTH, WAYANADU, PIN - 673121
- 2 ADDL.R2. ANUMODH KUMAR .A.A
AGED 39 YEARS, S/O AYYAPPAN NAIR, RESIDING AT AYKARA
VEEDU, THOVARIMALA P.O, SULTHAN BATHERY, WAYANAD
[ADDL.R2 IMPEADED AS PER ORDER DATED 25.01.2024 IN
I.A.1/2024 IN WP(C) 389/2024].

BY ADV M.A.ASIF

SMT C S SHEEJA, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.01.2024, ALONG WITH WP(C).378/2024 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945
WP(C) NO. 400 OF 2024

PETITIONER:

BABY VARGHESE
AGED 54 YEARS
S/O VARGHESE, MANAGING COMMITTEE MEMBER, SULTHAN
BATHERY CO-OPERATIVE URBAN BANK D.2034, SULTHAN
BATHERY, WAYANAD RESIDING AT PULAKKUDY HOUSE (NOT
PULIKKUDI), CHEERAMKUNNU, KARACHAL P.O, 54 MILE,
MEENANGADI, WAYANAD, PIN - 673592

BY ADVS.
P.N.MOHANAN
C.P.SABARI
AMRUTHA SURESH
GILROY ROZARIO

RESPONDENTS:

- 1 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), OFFICE OF THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES, KALPATTA NORTH, WAYANAD.,
PIN - 673121
- 2 ADDL.R2. ANUMODH KUMAR .A.A
AGED 39 YEARS, S/O AYYAPPAN NAIR, RESIDING AT AYKARA
VEEDU , THOVARIMALA P.O, SULTHAN BATHERY, WAYANAD [IS
IMPLEADED AS ADDITIONAL R2 AS PER ORDER DATED
25.01.2024 IN I.A.1/2024 IN WP(C)400/2024].

BY ADV M.A.ASIF

SMT C S SHEEJA, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.01.2024, ALONG WITH WP(C).378/2024 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945
WP(C) NO. 412 OF 2024

PETITIONER:

D.P.RAJASEKHARAN
AGED 58 YEARS
S/O P.K.PARAMESWARAN, CHAIRMAN, SULTHAN BATHERY
CO-OPERATIVE URBAN BANK D.2034, SULTHAN BATHERY,
WAYANAD, RESIDING AT DAIVATHIN VEEDU, VAKERI P.O,
SULTHAN BATHERY, WAYANAD, PIN - 673592

BY ADVS.
P.N.MOHANAN
C.P.SABARI
AMRUTHA SURESH
GILROY ROZARIO

RESPONDENTS:

- 1 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), OFFICE OF THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES, KALPATTA NORTH, WAYANAD,
PIN - 673121
- 2 ADDL R2: ANUMODH KUMAR .A.A
AGED 39 YEARS
S/O AYYAPPAN NAIR, RESIDING AT AYKARA VEEDU,
THOVARIMALA P.O, SULTHANBATHERY, WAYANAD.
(ADDL R2 IS IMPEADED AS PER ORDER DATED 25-01-2024 IN
IA 1/2024 IN WP(C)412/2024)

BY ADV M.A.ASIF

SMT C S SHEEJA, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.01.2024, ALONG WITH WP(C).378/2024 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945
WP(C) NO. 437 OF 2024

PETITIONER:

T.J.ABRAHAM
AGED 61 YEARS
S/O JACOB, MANAGING COMMITTEE MEMBER, SULTHAN BATHERY
CO-OPERATIVE URBAN BANK D.2034, SULTHAN BATHERY,
WAYANAD, RESIDING AT THELAKKAD HOUSE, SULTHAN BATHERY,
WAYANAD, PIN - 673592

BY ADVS.
P.N.MOHANAN
C.P.SABARI
AMRUTHA SURESH
GILROY ROZARIO

RESPONDENTS:

- 1 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL)
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, KALPATTA NORTH, WAYANADU, PIN - 673121
- 2 ADDL R2: ANUMODH KUMAR A.A.
AGED 39 YEARS, S/O AYYAPPAN NAIR RESIDING AT AYKARA
VEEDU, THOVARIMALA P.O, SULTHANBATHERY, WAYANAD.
(*ADDITIONAL R2 IS IMPEADED AS PER ORDER DATED
25.01.2024 IN I.A.1/24 IN WP(C)437/2024)

BY ADV M.A.ASIF

SMT C S SHEEJA, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.01.2024, ALONG WITH WP(C).378/2024 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners herein are the Chairman, Vice Chairman, and Managing Committee members of the Sulthan Bathery Co-operative Urban Bank (referred to as Urban Bank for the sake of brevity). The aforesaid Society is governed by the provisions of the Kerala Co-operative Societies Act and the Rules framed thereunder. They have approached this Court impugning Exts.P2 and P3 notices issued by the Joint Registrar calling upon them to appear before the said authority to show cause why they shall not be removed from the membership of the society for acquiring dual membership and thus incurring ineligibility under Rule 27(1) of the Co-operative Societies Rules.

2. As identical issues are raised in all these writ petitions, all these petitioners are taken up and disposed of by a common judgment. Reference to parties and Exhibits shall be as referred to in W.P.(C)No. 437 of 2024 unless otherwise stated.

3. The petitioner, in Writ Petition (Civil) No. 412 of 2024, is reported to have secured membership in the Urban Bank on 15.3.1995. At the time of obtaining this membership, the petitioner was already a member of the Sulthan Bathery Service Co-operative Bank, a membership that was acquired

on 15.10.2012. Additionally, the petitioner had previously become a member of the Sulthan Bathery Primary Co-operative Agricultural & Rural Development Bank on 10.2.1993.

4. The petitioner, in Writ Petition (Civil) No. 378 of 2024, is reported to have secured membership in the Urban Bank on 21.2.2018. At the time of obtaining this membership, the petitioner was already a member of the Sulthan Bathery Service Co-operative Bank, a membership that was acquired on 19.4.1996. Additionally, the petitioner had previously become a member of the Sulthan Bathery Primary Co-operative Agricultural & Rural Development Bank on 11.05.2012.

5. The petitioner, in Writ Petition (Civil) No. 389 of 2024, is reported to have secured membership in the Urban Bank on 16.4.2007. At the time of obtaining this membership, the petitioner was already a member of the Poothadi Service Co-operative Bank, a membership that was acquired on 28.7.1984.

6. The petitioner, in Writ Petition (Civil) No. 400 of 2024, is reported to have secured membership in the Urban Bank on 1.2.2014. At the time of obtaining this membership, the petitioner was already a member of the Sulthan Bathery Primary Co-operative Agricultural & Rural Development Bank,

a membership that was acquired on 16.05.2012.

7. The petitioner, in Writ Petition (Civil) No. 437 of 2024, is reported to have secured membership in the Urban Bank on 7.1.2021. At the time of obtaining this membership, the petitioner was already a member of the Sulthan Bathery Service Co-operative Bank, a membership that was acquired on 15.06.1982. Additionally, the petitioner had previously become a member of the Sulthan Bathery Housing Co-operative Society on 30.6.1992.

8. In the respective notices issued to the petitioners, they have been asked to show cause why they shall not be rendered ineligible under clause 9(iv), 9(b)(1) of the bye-laws of the Bank as well as under Rule 27(1) of the Kerala Co-operative Societies Rules and why they shall not be proceeded against under Rule 16(3) and 16(4) of the Rules.

9. The above notices are under challenge in these proceedings.

10. Sri. P.N Mohanan, the learned counsel appearing for the petitioners, raised the following contentions to persuade this Court to quash the impugned notices.

- a. Ext.P2 notice issued by the Registrar has to be invalidated for lack of jurisdiction. He relies on the observations in **Johnny KT and Others v. Joint Registrar of Co-operative Societies**

and Others [2019 (3) KLT 718] and asserts that the Joint Registrar does not possess the authority to expel members based on the acquisition of dual membership as outlined in Rule 27(1) of the Kerala Co-operative Societies Rules. According to Rule 27(2) of the KCS Rules, the Joint Registrar can only request the Society to consider the expulsion of members and not order it directly.

- b. The counsel highlights that Ext.P2 notice accuses the petitioners of providing false information during their nomination process for the election. Given that the petitioners were elected to positions of Chairman, Vice Chairman, and Managing Committee members on 9.9.2013 by a significant majority, the counsel argues that if the allegation revolves around false statements during nomination, the appropriate recourse is through an election petition as specified under Section 69 of the Act. The counsel insists that statutory processes must be followed as prescribed, suggesting that the notice aims to remove them from their elected positions improperly. Relying on the observations from paragraph 34 of **J. Jayalalitha and Others v State of**

Karnataka and Others [(2014) 2 SCC 401], it is submitted that when the Statute requires certain things to be done in a certain way, it has to be done in that way and not contrary to it at all.

- c. Reference is made to Ext.P1 in these cases, where it is argued that by the time Ext.P2 notices were issued, the petitioners had either terminated their memberships or had lost them. Referring to the observations in **Porinju vs. Joint Registrar of Co-operative Societies** [2009 (4) KLT 105], the counsel submits that for ineligibility to warrant action for removal, it must be current and ongoing at the time the notice is issued by the Registrar.
- d. The counsel notes that prior to issuing Ext.P2, the Joint Registrar had sought a report from the Assistant Registrar, which indicated that the petitioners were members of the urban society only, thereby providing sufficient grounds for their eligibility.
- e. The learned counsel further relies on the observations of the Division Bench judgment in **FACT Service Co-operative Societies Ltd vs. Balakrishna Menon and Others** [2007 (3) ILR 483], and it is argued that disputes meant to be resolved

under Section 69 of the Act, cannot be a basis for the exercise of jurisdiction under any other provisions of the Act. This is presented in the context of attempts to destabilize the petitioners who have been successful in elections multiple times.

- f. Lastly, drawing upon the observations in **Kaipadam Property Development Company Pvt Ltd v. State of Kerala** (ILR 2011 (1) Kerala 434), the counsel asserts that the Registrar had no jurisdiction to issue the notices in question.

11. In her response, Smt C.S. Sheeja, the learned Senior Government Pleader, pointed out that the rights and liabilities of members within Co-operative Societies are comprehensively detailed in Chapter III of the Co-operative Societies Rules. She argued that according to the bye-laws of the Society, which have been placed before this Court by the petitioners, individuals seeking membership in Urban Bank must not concurrently be a member of any other Primary Co-operative Bank or Co-operative Credit Society. This condition is specifically underscored in Clause 9(iv) of the bye-laws, which states that eligibility for membership is reserved exclusively for those who are not members of any Primary Co-operative Bank or Co-operative Credit Society. Further, she referred to Rule 16 of the Rules and

submitted that dual membership—at the time of admission to the Society or through subsequent acquisition—renders a person ineligible for membership. Given the uncontested fact that the petitioner held another membership at the time of his admission to the Society, he would, therefore, forfeit the benefit due to a breach of this rule. This ineligibility extends to all petitioners, as each was a member of either a primary co-operative bank or a co-operative credit society bank upon their admission to Urban Bank. She also made reference to Rule 16(4) of the Rules, asserting that should a member of a society become ineligible, the Registrar has the authority to declare, through a written order, the cessation of their membership as of the date of his order. This procedure mandates that the individual in question must be given an opportunity to object to the proposed action and, if they wish to be heard, an opportunity to present their case before the final order is issued. The learned Government Pleader further highlighted Rule 16(1)(c), which mandates that no person shall be admitted as a member of a society without fulfilling all conditions laid down in the Act, Rules, and Bye-laws. In the matter at hand, it is clear that the provisions of the bye-laws were expressly violated. Lastly, she referred to a judgment by the Division Bench of this Court in W.A No.1121 of 2020, wherein it was concluded that even in instances of

non-compliance with Rule 16(1) of the Co-operative Societies Rules, the powers under Section 16(3) could be invoked in appropriate circumstances. It is submitted that the petitioners have been issued with a notice under Section 16(4) of the Rules, and they are bound to appear and place the materials so that appropriate decisions can be taken.

12. I have considered the submissions advanced and have gone through the records.

13. A perusal of Ext.P2 notice issued by the Joint Registrar would disclose that information was received by the said authority that the petitioners herein have acquired ineligibility under Rule 27(1) of the Co-operative Societies Rules. A perusal of the notice would disclose that the petitioners have been asked to appear and show cause why action shall not be taken under Rule 16(3) and (4) for the reasons stated therein.

The relevant provisions of Rule 16, read as under:

16. `Conditions to be complied with for admission for membership.

(1) No person shall be admitted as a member of a society unless

xxx

(c) he has fulfilled all other conditions laid down in the Act, Rules and Bye-laws;

xxxx

- (2) No person shall be eligible for admission as a member of a Society, if he,-

xxx

xxxx xxx

- (3) Where a person already admitted to membership is seen to have been ineligible for membership at the time he was so admitted as a member or if subsequently becomes ineligible for membership the Committee of the Society may remove the person from membership after giving him an opportunity for making his representation if any, and the person concerned shall thereupon cease to be member of the society.

- (4) Where a member of a society becomes ineligible to continue as such the Registrar may of his own motion or on a representation made to him by member of the society or by the financing Bank, by an order in writing declare that he has ceased to be a member of the society from the date of his order. The Registrar shall give such person an opportunity to state his objection, if any, to proposed action and if the person wishes to be heard, he shall be given an opportunity to be heard before passing an order as aforesaid.

14. A reading of the above Rule would show that the statutory

provision is crystal clear that a person becomes ineligible for both reasons of dual membership either at the time of admission in the Society or subsequent acquisition of membership in the Society. So long as there is no dispute on the factual position that a member had another membership at the time of his admission in the Society referred to in the Original Petition, the member loses defence since the mandate in the Rule is "where a person already admitted to membership is seen to have been ineligible for membership at the time he was so admitted as a member or if he subsequently becomes ineligible for membership, the Committee of the Society may remove the person from membership after giving him an opportunity for making his representation if any, and the person concerned shall thereupon cease to be a member of the society. (see **Kunhiraman Nair v Joint Registrar** [2002 (2) KLT 113]).

15. By the impugned notices, the petitioners have only been asked to show cause as to why the Registrar shall not proceed under Section 16(4). It would be open to the petitioners to appear before the Registrar and raise their contentions. The contention of the petitioners relying on Rule 27(2) would have no application as the Registrar has not taken any action to remove the petitioners. I am also not impressed with the argument of the

petitioners that the Registrar will have no jurisdiction to issue the notice. It would not be proper for this Court to delve on the contentions raised by the petitioners any further lest it may prejudice them in the proceedings before the Registrar.

The petitioners may appear and raise their contentions, and the registrar concerned shall consider all the facts and take a decision as per procedure and in accordance with law.

No interference is warranted.

These petitions are dismissed.

Sd/-
RAJA VIJAYARAGHAVAN V,
JUDGE

APPENDIX OF WP(C) 389/2024

PETITIONER'S EXHIBITS:

Exhibit P1	A TRUE COPY OF THE RELEVANT PORTION OF THE REPORT DATED 30.11.2023 OF THE ASSISTANT REGISTRAR
Exhibit P2	A TRUE COPY OF THE NOTICE DATED 11.12.2023 OF THE JOINT REGISTRAR
Exhibit P3	A TRUE COPY OF THE NOTICE DATED 28.12.2023 OF THE JOINT REGISTRAR FOR HEARING ON 05.01.2024
Exhibit P4	RELEVANT PAGE OF THE CLAUSE 9 (IV) AND 9B (I) OF MEMBERSHIP
Exhibit P5	TRUE COPY OF THE JUDGMENT OF JOHNY K.T V. JOINT REGISTRAR REPORTED IN 2019 (4) KHC 238
Exhibit P6	TRUE COPY OF THE JUDGMENT OF SUBHASH V. JOINT REGISTRAR REPORTED IN 2010 (1) KHC 291

APPENDIX OF WP(C) 400/2024

PETITIONER'S EXHIBITS:

Exhibit P1	TRUE COPY OF THE RELEVANT PORTION OF THE REPORT DATED 30.11.2023 OF THE ASSISTANT REGISTRAR
Exhibit P2	TRUE COPY OF THE NOTICE NIL DATE ISSUED BY THE PART-TIME ADMINISTRATOR
Exhibit P3	TRUE COPY OF THE NOTICE DATED 11.12.2023 OF THE JOINT REGISTRAR
Exhibit P4	TRUE COPY OF THE NOTICE DATED 28.12.2023 OF THE JOINT REGISTRAR FOR HEARING ON 05.01.2024
Exhibit P5	RELEVANT PAGE OF THE CLAUSE 9 (IV) AND 9B (I) OF MEMBERSHIP
Exhibit P6	TRUE COPY OF THE JUDGMENT OF JOHNY K.T V. JOINT REGISTRAR REPORTED IN 2019 (4) KHC 238
Exhibit P7	TRUE COPY OF THE JUDGMENT OF SUBHASH V. JOINT REGISTRAR REPORTED IN 2010(1) KHC 291

APPENDIX OF WP(C) 412/2024

PETITIONER'S EXHIBITS:

Exhibit P1	TRUE COPY OF THE RELEVANT PORTION OF THE REPORT DATED 30.11.2023 OF THE ASSISTANT REGISTRAR
Exhibit P2	TRUE COPY OF THE NOTICE DATED 11.12.2023 OF THE JOINT REGISTRAR
Exhibit P3	TRUE COPY OF THE NOTICE DATED 28.12.2023 OF THE JOINT REGISTRAR FOR HEARING ON 05.01.2024
Exhibit P4	RELEVANT PAGE OF THE CLAUSE 9 (IV) AND 9B (I) OF MEMBERSHIP
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Exhibit P6	TRUE COPY OF THE JUDGMENT OF SUBHASH V. JOINT REGISTRAR REPORTED IN 2010 (1) KHC 291

APPENDIX OF WP (C) 437/2024

PETITIONER'S EXHIBITS:

Exhibit P1	A TRUE COPY OF THE RELEVANT PORTION OF THE REPORT DATED 30.11.2023 OF THE ASSISTANT REGISTRAR
Exhibit P2	A TRUE COPY OF THE NOTICE DATED 11.12.2023 OF THE JOINT REGISTRAR
Exhibit P3	A TRUE COPY OF THE NOTICE DATED 28.12.2023 OF THE JOINT REGISTRAR FOR HEARING ON 05.01.2024
Exhibit P4	THE RELEVANT CLAUSE 9 (IV) AND 9B (I) OF MEMBERSHIP
Exhibit P5	A TRUE COPY OF THE JUDGMENT OF JOHNY K.T V. JOINT REGISTRAR REPORTED IN 2019 (4) KHC 238
Exhibit P6	A TRUE COPY OF THE JUDGMENT OF SUBHASH V. JOINT REGISTRAR REPORTED IN 2010 (1) KHC 291

APPENDIX OF WP(C) 378/2024

PETITIONER'S EXHIBITS:

Exhibit P1	TRUE COPY OF THE RELEVANT PORTION OF THE REPORT DATED 30.11.2023 OF THE ASSISTANT REGISTRAR
Exhibit P2	TRUE COPY OF THE NOTICE DATED 11.12.2023 OF THE JOINT REGISTRAR
Exhibit P3	TRUE COPY OF THE NOTICE DATED 28.12.2023 OF THE JOINT REGISTRAR FOR HEARING ON 05.01.2024
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Exhibit P6	TRUE COPY OF THE JUDGMENT OF SUBHASH V. JOINT REGISTRAR REPORTED IN 2010 (1) KHC 291