IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WA.No. 1161 of 2011 ( ) IN WP(C).30535/2010

JUDGMENT IN WP(C) 30535/2010 of HIGH COURT OF KERALA DATED 09-12-2010

APPELLANT/WRIT PETITIONER:

K.V.ALIAS,AGED 40 YEARS,S/O.VARGHESE,
KAVALAKKAL HOUSE, KALLUPALAM NAGAR 87 (A)
ANGAMALY P.O, ERNAKULAM DISTRICT, PIN 683 572.

BY ADVS.SRI.V.C.JAMES
SRI.GRASHIOUS KURIAKOSE (SR.)

RESPONDENTS:
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1. THE TAHSILDAR, ALUVA,ERNAKULAM DISTRICT
PIN 683 507.

2. THE VILLAGE OFFICER,
ANGAMALY, ERNAKULAM DISTRICT, PIN 683 572.

3. P.T. PAUL, AGED 49 YEARS,
S/O.THOMAS, PALLIPPATTU HOUSE,
ANGADIKADAVU ROAD,
ANGAMALY POST.

ADDL.R3 BY ADV. SRI.WILSON URMESE
R1 AND R2 BY SENIOR GOVERNMENT PLEADER SRI.LIJU STEPHEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

W.A. No.1161 of 2011

Dated this the 22nd day of June, 2015

JUDGMENT

Antony Dominic,J.

The appellant filed the Writ Petition No.30535 of 2010 challenging Exts.P3 and P4, an order of assessment issued under the Kerala Buidling Tax Act and a notice issued under the Revenue Recovery Act to recover the tax that is assessed. When the writ petition having been dismissed by the learned Single Judge, this appeal is filed.

2. We heard the learned Senior Counsel for the appellant, the learned Government Pleader and the learned counsel appearing for the 3rd respondent.

3. Admittedly, the assessment order was issued as early as on 18.09.2007, the appellant did not challenge the assessment order but filed the writ petition with a prayer to quash the same only when Ext.P4 revenue recovery proceedings were initiated in August 2010. This means that on account of his failure to avail of the statutory remedies or even pursuing a writ petition

before this Court in time, the order of assessment under the Building Tax Act has attained finality. In such a situation, the learned Single Judge has only justified in declining to interfere with Ext.P3. Revenue recovery proceedings have been evidenced by Ext.P4 also was rightly upheld by the learned Single Judge. Therefore, we do not find any merit in the writ appeal.

4. Appeal therefore fails and it is accordingly dismissed.

Before us a contention was raised regarding the proportionate liability of the additional 3rd respondent. Though the third respondent is disputing his liability, we need only clarify that if the appellant has a case that the third respondent is liable to make any contribution, it will be open to the appellant to pursue his claim against the 3rd respondent in accordance with law.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. to Judge

smv