IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 923 of 2015 (M)

PETITIONER :

DILEEF.V, AGED 52 YEARS,
S/O.KALANTHAN KOYA, VADAKKANCHERRY HOUSE,
NEAR GOVT. HIGH SCHOOL, CHERUVANNUR AMSOM DESOM,
P.O.KOLATHARA, KOZHIKODE.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENT(S):
----

1. SPECIAL TAHSILDAR (LA), CIVIL STATION,
KOZHIKODE - 673 001

2. DISTRICT COLLECTOR, CIVIL STATION,
KOZHIKODE -673 001

R1 & R2 BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 923 of 2015 (M)
--

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 -	**TRUE COPY OF THE DECREE PASSED IN LAR NO.126 OF 2011 BY THE PRINCIPAL SUB COURT, KOZHIKODE.**
EXT.P2 -	**TRUE COPY OF THE E.P.NO.532 OF 2014 IN LAR NO.126 OF 2011 FILED BY THE PETITIONER BEFORE THE PRINCIPAL SUB COURT, KOZHIKODE**
EXT.P3 -	**TRUE COPY OF THE ORDER OF ASSESSMENT ISSUED BY THE 1ST RESPONDENT**
EXT.P4 -	**TRUE COPY OF THE LETTER DATED 14-11-2014 SENT BY THE PETITIONER TO THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C) No. 923 of 2015 (M)

...

Dated this the 9th day of March, 2015

JUDGMENT

The petitioner, against whom an assessment under the Kerala Building Tax Act was completed, became liable to pay the amounts shown in Ext.P3 order of assessment, to the Kozhikode Corporation.

2. In the writ petition, the prayer of the petitioner is for a direction to set off the said amounts, that are due to the Corporation, from the amounts that are due to the petitioner, pursuant to a land acquisition proceedings that culminated in an acquisition of land from the petitioner, and in respect of which, the petitioner became entitled to certain amounts by way of compensation.

3. I have heard Sri.C.P.Mohammed Nias, the learned counsel for the petitioner and Sri.Shyson P.Manguzha, the learned Government Pleader for the respondents.

4. The learned Government Pleader, on instructions would submit that, the amounts that are due to the petitioner by way of compensation under the Land Acquisition Act, 1894, cannot be adjusted against the amounts that are due from the petitioner by way of building tax under the Kerala Building Tax Act, 1975. The absence of any specific provisions, that enable the Government to permit a set off, is cited as the reason for the inability of the respondents to accede to the request of the petitioner.

5. On the facts and circumstances, I am of the view that, the petitioner would have to pursue the matter under the Land Acquisition Act, with the respondents, for obtaining the amounts due to him. Taking into account the fact, however, that the petitioner is entitled to receive substantial amounts from the respondents by way of compensation, I am inclined to grant the petitioner the facility of paying the building tax assessed on him by Ext.P3 order, in installments. Accordingly, I dispose the writ petition permitting the petitioner to discharge his liability under Ext.P3 order, to the Kozhikode Corporation, in six equal and successive monthly installments commencing from 20.03.2015.

6. It is made clear that, if the petitioner commits a default in respect of any of the installments, he will lose the benefits of this judgment and the respondent will be free to proceed against the petitioner for recovery of the amounts confirmed against him in Ext.P3 order.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/09/03/

The direction in the paragraph 5 of the judgment dated 09.03.2015 in W.P.(C) No.923/2015 requiring the petitioner to discharge his liability under Ext.P3 order, to the Kozhikode Corporation is corrected and substituted as directing the petitioner to pay the amounts due in Ext.P3 to the 1^{st} respondent as per order dated 10.04.2015 in I.A.No.5090/2015.

Sd/-
Registrar (Judicial)