IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).NO. 2081 OF 2015 (I)

PETITIONER(S):

V.L. ITTIACHEN, S/O.LONAPPEN VAZHAPILLY,
VAZHAPILLY HOUSE (MERLIN),
P.O. NELLIKUNNU, THRISSUR - 680 005.

BY ADVS.SRI.R.S.KALKURA,
SRI.M.S.KALESH,
SMT.R.BINDU,
SRI.HARISH GOPINATH.

RESPONDENT(S):
----

1. THE STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY,
   REVENUE GOVERNMENT OF KERALA, SECRETARIAT,
   THIRUVANANTHAPURAM - 695 001.

2. THE REVENUE DIVISIONAL OFFICER,
   COLLECTORATE, THRISSUR - 680 003.

3. THE TAHSILDAR, TALUK OFFICE,
   THRISSUR - 680 020.

BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).NO. 2081 OF 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

P1- TRUE COPY OF THE PROPERTY TAX RECEIPT BEARING NO. 60085 DATED 01.08.2013 ISSUED BY THE VILLAGE OFFICER, THRISSUR VILLAGE.

P2- TRUE COPY OF THE PROPERTY TAX RECEIPT BEARING NO. 0374740

P3- TRUE COPY OF THE SITE PLAN APPROVED FOR RENOVATION DATED 16.11.1996 APPROVED BY THE TOWN PLANNING OFFICER, THRISSUR MUNICIPALITY SHOWING THE OUTLINES OF THE OLD HOTEL BUILDINGS.

P4- TRUE COPY OF THE CERTIFICATE BEARING NO.R6/26062/14 DATED 05.11.2014 ISSUED BY THE THRISSUR CORPORATION TO THE PETITIONER.

P5- TRUE COPY OF THE SITE PLAN SUBMITTED BY THE PETITIONER AND APPROVED BY THE TOWN PLANNING OFFICER OF THE THRISSUR CORPORATION.

P6- TRUE COPY OF THE OCCUPANCY CERTIFICATE (EXTENSION) ISSUED BY THE THRISSUR CORPORATION DATED 08.10.2003

P7- TRUE COPY OF THE NOTICE DATED 19.08.2013 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER

P8- TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE THE TAHSILDAR DATED 03.09.2013

P9- TRUE COPY OF THE ORDER OF ASSESSMENT ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER BEARING NO.G2-31297/13 DATED 28.01.2014

P10- TRUE COPY OF THE REVIEW/APPEAL SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT DATED 14.02.2014

P11- TRUE COPY OF THE RECEIPT ISSUED BY THE THIRD RESPONDENT ACKNOWLEDGING THE RECEIPT OF THE APPEAL/REVIEW MEMO SUBMITTED BY THE PETITIONER DATED 17.02.2014

P12- TRUE COPY OF THE COMMUNICATION DATED 10.10.2014 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER RECEIVED BY THE PETITIONER ON 20.10.2014.

P13- TRUE COPY OF THE COMMUNICATION DATED 18.11.2014 ISSUED BY THE DISTRICT COLLECTOR, THRISSUR.

.......2/-

P14- TRUE COPY OF THE REPRESENTATION DATED 24.11.2014 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT ALONG WITH THE REVIEW/APPEAL DATED 14.02.2014.

P15- TRUE COPY OF THE ORDER BEARING NO.K.DIS.17132/2014 DATED 06.12.2014 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

P16- TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR.ANTO FRANCIS, SURGEON OF ELITE MISSION HOSPITAL, THRISSUR.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C).No.2081 of 2015

..

Dated this the 21st day of January, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P9 assessment order and Ext.P15 appellate order passed in connection with the levy of building tax on the building put up by the petitioner. The facts in the writ petition would disclose that, against Ext.P9 assessment order, the petitioner had approached various authorities on the erroneous belief that an appeal/revision/review would lie under the Kerala Building Tax Act before the said authorities. It was only much later that the petitioner was informed that appeal against Ext.P9 assessment order could be maintained only before the 2nd respondent, who was the appellate authority under the Act. Although, the petitioner then preferred an appeal against Ext.P9 assessment order before the 2nd respondent, the said appeal came to be dismissed by Ext.P15 order on the ground that the appeal had been preferred beyond the period of limitation prescribed under the Kerala Building Tax Act. It is under these circumstances that the present writ petition has been filed by the petitioner impugning Ext.P9 assessment order.

2. I have heard Sri.R.S.Kalkura, the learned counsel for the

petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and submissions made across the bar, and taking note of the objections of the petitioner with regard to Ext.P9 assessment order, which are factual in nature and would require an adjudication on facts by an authority under the Building Tax Act, I deem it fit to relegate the petitioner to the appellate remedy before the 2nd respondent appellate authority. Accordingly, I direct that the 2nd respondent appellate authority shall consider and pass orders on merits in Ext.P14 appeal preferred by the petitioner within a period of three weeks from the date of receipt of a copy of this judgment, subject to the petitioner paying one instalment of the tax amount confirmed against him by Ext.P9 order of assessment. If the petitioner has already effected the said payment, further payments shall not be insisted by the 2nd respondent. To enable the 2nd respondent to pass fresh orders on merits in Ext.P14 appeal preferred by the petitioner, I quash Ext.P15 order of the 2nd respondent. It is made clear that coercive steps for recovery of balance amount pursuant to Ext.P9 order of assessment shall not be pursued against the petitioner till such time as the 2nd

respondent passes orders on Ext.P14 appeal and communicates the same to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/