IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

WP(C).No. 2887 of 2015 (I)

WRIT PETITIONER:-:

NISHA PRAKASHAN, W/O.M.P. PRAKASHAN,
MOTTAMMEL HOUSE, "NANDANAM",
ELANGODE, P.O. PANOOR, KANNUR.

BY ADV. DR.K.P.PRADEEP.

RESPONDENTS:-
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1. STATE OF KERALA,
   REPRESENTED BY ITS PRINCIPAL SECRETARY TO REVENUE,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM - 695 001.

2. DISTRICT COLLECTOR,
   DEPARTMENT OF REVENUE,
   GOVERNMENT OF KERALA, KANNUR,
   CIVIL STATION, KANNUR - 670 002.

3. SUB COLLECTOR,
   DEPARTMENT OF REVENUE,
   GOVERNMENT OF KERALA,
   THALASSERY, KANNUR - 670 004.

4. TAHSILDAR, DEPARTMENT OF REVENUE,
   GOVERNMENT OF KERALA,
   THALASSERY, KANNUR - 670 004.

BY SR. GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 2887 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. TRUE COPY OF THE APPROVED PLAN IN RESIDENTIAL BUILDING NO.6/315, ELANGOD, PANOOR PANCHAYAT, CONSTRUCTED BY THE PETITIONER.

EXHIBIT P2. TRUE COPY OF THE ORDER NO.F.9081A/2006 DATED 28.04.2007 ISSUED BY THE REVENUE DIVISIONAL OFFICER, THALASSERY UNDER SECTION 11 OF THE KERALA BUILDING TAX ACT, 1973.

EXHIBIT P3. TRUE COPY OF THE ORDER NO.C4-1798/2006 DATED 17.11.2007 ISSUED BY THE 4TH RESPONDENT UNDER SECTION 5A OF THE KERALA BUILDING TAX AC, 1973.

EXHIBIT P4. TRUE COPY OF THE ORDER NO.K.DIS 7966/08/F DATED 06.06.2013 ISSUED BY THE 3RD RESPONDENT UNDER SECTION 11 OF THE KERALA BUILDING TAX ACT, 1973.

EXHIBIT P5. TRUE COPY OF THE REVISION PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AGAINST EXT.P4 ORDER.

EXHIBIT P6. TRUE COPY OF THE ORDER NO.2013/40299/G1/13 ISSUED BY THE 2ND RESPONDENT UNDER SECTION 13 OF THE KERALA BUILDING TAX ACT, 1973 IN EXT.P5 PETITION.

EXHIBIT P7. TRUE COPY OF THE COMMUNICATION NO.G1/2014/65856/13 DATED 05.01.2015 ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT WITH ANNEXURE, TO THE PETITIONER.

RESPONDENT'S EXHIBITS:-

EXT.R3A THE ORIGINAL REPORT OF THE 3RD RESPONDENT AND SKETCH OF ASSISTANT ENGINEER, PWD, THALASSERY.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.2887 of 2015

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Dated this the 6th day of July, 2015

JUDGMENT

The petitioner, impugning assessment to the Luxury Tax under the Building Tax Act, has approached this Court.

2. This Court as per the order dated 4.3.2015 directed the third respondent to measure the plinth area of the building in question. Pursuant to the above direction, a report has been placed before this Court along with the counter affidavit. The report clearly indicates that the plinth area of the building is less than 275.20 square metres.

In that view of the matter, the building cannot be assessed for the luxury tax. Accordingly, the writ petition is allowed. The impugned orders are set aside. In view of the above, any luxury tax already paid shall be refunded to the petitioner within three months.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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