

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 3401 of 2015 (A)

PETITIONER:

M/S.INDRAPRASTHA BEACH RESORTS PVT. LTD AGED 64 YEARS
PAPANASAM, BEACH ROAD, VARKALA
THIRUVANANTHAPURAM-695141
REPRESENTED BY ITS MANAGING DIRECTOR SADASIVAN MANGALAN.

BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH

RESPONDENTS:

1. THE VARKALA MUNICIPALITY
REPRESENTED BY ITS SECRETARY, VARKALA
THIRUVANANTHAPURAM DISTRICT-694001.
2. THE MUNICIPAL SECRETARY
VARKALA MUNICIPALITY, VARKALA
THIRUVANANTHAPURAM DISTRICT-691001.
3. THE STANDING COMMITTEE FOR FINANCE
REPRESENTED BY ITS CHAIRMAN, VARKALA MUNICIPALITY
VARKALA, THIRUVANANTHAPURAM DISTRICT-691001.

R BY SRI.M.R.RAJESH, SC, VARKALA MUNICIPALITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 3401 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P1 : TRUE COPY OF THE JUDGMENT DATED 11.11.2014 IN W.P.[C] 29847 OF 2014 OF THIS HONOURABLE COURT.
- EXT. P2 : TRUE COPY OF THE ORDER NO.R5-14803/14 DATED 6.12.2014 OF THE 2ND RESPONDENT.
- EXT. P2A : THE ENGLISH TRANSLATION OF EXHIBIT P2.
- EXT. P3 : TRUE COPY OF THE MEMORANDUM OF APPEAL DATED 5.1.2014 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT ALONG WITH ITS ACKNOWLEDGEMENT RECEIPT.
- EXT. P4 : TRUE COPY OF THE TRUE COPY OF THE DEMAND NOTICE DATED 28.10.2014 FOR RS.2,90,166/-
- EXT. P4A : THE ENGLISH TRANSLATION OF EXHIBIT P4.
- EXT. P5 : TRUE COPY OF THE DEMAND NOTICE DATED 28.10.2014 FOR RS.3,21,703/-
- EXT. P5A : THE ENGLISH TRANSLATION OF EXHIBIT P5.
- EXT. P6 : TRUE COPY OF THE DEMAND NOTICE DATED 28.10.2014 FOR RS.7,943/-
- EXT. P6A : THE ENGLISH TRANSLATION OF EXHIBIT P6.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

P.A. TO JUDGE

SJ

DAMA SESHADRI NAIDU, J.

= = = = =

W.P.(C) No.3401 of 2015

= = = = =

Dated this the 3rd day of February, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, who has a building unoccupied for some considerable time, applied to the respondent Municipality under Section 239 of the Kerala Municipality Act for vacancy remission of building tax. When the said application was not considered, he approached this Court invoking Ext.P1 judgment in W.P.(C).No.29847/2014. Later, the authorities having considered the petitioner's application passed Ext.P2 order rejecting his claim. Aggrieved thereby, the petitioner filed Ext.P3 statutory appeal which is yet to be disposed of. Ventilating his grievances that, pending the statutory appeal, the respondent Municipality has made drastic efforts to take

coercive steps against the petitioner for realising building tax, he has filed the present writ petition.,

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel for the respondents, without adverting to the merits of the matter, this Court disposes of the present writ petition with a direction to the third respondent to consider Ext.P3 statutory appeal and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of sixty days from the date of receipt of a copy of the judgment. It is further made clear that until Ext.P3 statutory appeal is disposed of, the respondent Municipality shall not take any coercive steps for recovery of the alleged building tax from the petitioner.

DAMA SESHADRI NAIDU, JUDGE

sj