

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 4149 of 2015 (P)

PETITIONER(S):

- 1. M.M. THAMPY, AGED 63 YEARS,
S/O.M.P.MATHEW, MANATHARA, JNRA-85,
ARCHANA NAGAR, PONGHAMMOOD,
MEDICAL COLLEGE P.O, TRIVANDRUM-695 011.**
- 2. MERCY CHACKO, AGED 60 YEARS,
W/O.CHACKO PETER, SRAMBIKAL HILLS,
VADAVATHOOR P.O, KOTTAYAM.**
- 3. MOHAN ABRAHAM, AGED 61 YEARS,
S/O.V.C.ABRAHAM, VAHANAT HOUSE,
DEVALOKAM P.O., KOTTAYAM,
REP. BY HIS POWER OF ATTORNEY HOLDER
SANTHI MOHAN, AGED 56, W/O.MOHAN ABRAHAM.**

**BY ADVS.SRI.V.P.MOHAMMED NIYAZ,
SRI.M.P.MUHAMMAD FAZIL,
SRI.K.RONALD JOSE,
SMT.AUGNES LOVELY FRANCIS.**

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE TAHSILDAR, KOTTAYAM-686 001.**

BY GOVT. PLEADER SMT.SOBHA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT P1 : TRUE COPY OF THE PARTNERSHIP DEED OF THE FIRM
M/S CLASSIC BUILDERS DATED 01-03-1995.
- EXT P2 : TRUE COPY OF THE AGREEMENT FOR SALE DATED 24-09-1995.
- EXT P3 : TRUE COPY OF THE AGREEMENT FOR SALE DATED 24-09-1996.
- EXT P4 : TRUE COPY OF THE NOTICE DATED 30-10-2000.
- EXT P5 : TRUE COPY OF THE JUDGMENT DATED 02-11-2007 O.P.NO.32733/2004.
- EXT P6 : TRUE COPY OF THE ORDER DATED 22-12-2014 PASSED BY
THE 2ND RESPONDENT.
- EXT P7 : THE LIST SHOWING THE DETAILS OF 26 APARTMENT OWNERS
WHO WERE ENTERED AGREEMENT WITH THE CLASSIC BUILDERS
FOR CONSTRUCTION.
- EXT P8 : TRUE COPY OF THE CHEQUES ISSUED BY APARTMENT OWNERS
TO CLASSIC BUILDERS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 4149 of 2015
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Dated this the 10th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P6 order passed by the 2nd respondent assessing the petitioners to building tax under the Kerala Building Tax Act. The contention of the petitioners in the writ petition is that Ext.P6 order was passed by the 2nd respondent without hearing them.

2. I have heard Sri.V.P.Mohammed Niyas, the learned counsel for the petitioners 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 the submissions made across the bar, I find that, in Ext.P6 order, the 2nd respondent refers to an earlier hearing, that was offered to the petitioner as well as the owners of the individual apartments, in 2010. It is apparent from Ext.P6, however, that immediately prior to the passing of the said order in 2014, the petitioners were not afforded a personal hearing.

4. Under the said circumstances, I quash Ext.P6 order, and direct the 2nd respondent to reconsider the matter and pass orders, after issuing notices to the petitioners as well as the individual apartment owners, and after affording them an opportunity of hearing. It will be open to the petitioners to produce all materials to substantiate their contentions on merit before the 2nd respondent at the time of hearing. The 2nd respondent shall give notice to all the interested persons for a hearing on 08.04.2015. The petitioners shall appear before the 2nd respondent at his office at 11 AM on 08.04.2015 for personal hearing. Thereafter, the 2nd respondent shall pass orders as directed within a period of one month thereafter.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das