IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

W.P.(C).No. 5500 of 2015 (J)

PETITIONER :

DEVASYA K.T.,
S/O THOMAS,
REENA SADANAM,
OPP. SEEMATTI THEATRE
MULLAKKAL, ALAPPUZHA.

BY ADVS.SMT.KEERTHI SOLOMON
SRI.JOLLY ABRAHAM

RESPONDENTS :

1. THE VILLAGE OFFICER,
MULLAKKAL VILLAGE OFFICE,
AMBALAPUZHA TALUK,
ALAPPUZHA.

2. MUNICIPAL SECRETARY,
MUNICIPAL OFFICE,
AMBALAPUZHA TALUK,
ALAPPUZHA.

3. THE DISTRICT COLLECTOR
COLLECTORATE, ALAPPUZHA.

R1&R3 BY GOVERNMENT PLEADER : SMT.M.T.SHEEBA
R2 BY ADV. SRI.AZAD BABU, SC, ALAPPUZHA MUNICIPALITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bpr

W.P.(C).No. 5500 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 TRUE COPY OF THE TAX RECEIPT NO.39505 DATED 07.07.2014 ISSUED FROM THE ALAPPUZHA MUNICIPAL COUNCIL.

EXT.P2 TRUE COPY OF THE TAX RECEIPT NO.39503 DATED 07.07.2014 ISSUED FROM THE ALAPPUZHA MUNICIPAL COUNCIL.

EXT.P3 TRUE COPY OF THE DEMAND NOTICE DATED 22.12.2014.

EXT.P4 TRUE COPY OF THE DEMAND PRIOR TO ATTACHMENT OF LAND AS DATED 22.12.2014.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

bpr

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 5500 of 2015

Dated this the 20th day of July, 2015

JUDGMENT

The petitioner has approached this Court aggrieved by the revenue recovery proceedings initiated at the request of the Municipality.

2. The revenue recovery is for an amount of Rs. 2,18,913/-. The case of the petitioner is that he is not liable to pay any amount as demanded in the revenue recovery proceedings.

3. In this matter, a counter affidavit has been filed by the Municipality. It is stated in the counter affidavit that the amount due from the petitioner towards property tax. It is stated in paragraph 4 as follows :

> "The petitioner is having ownership of existing buildings bearing assessment Nos. 17/528 and 529 A in the Mullackal Ward of Alappuzha Municipality and he's paying the property tax for the same. However, adjoining the said buildings, the petitioner had illegally constructed a Godown and was found to be using it as a Godown for his wholesale business in footwear. The said building was found to be having a plinth area of 121.8 square meters. Following the prescribed procedure the said unauthorised structure was

> assessed under Section 242 of the Kerala Municipality Act, at the rate of Rs. 27,228/- per year from the 1st half-year of financial year 2009-2010. The demand was made for the period from 1st half of the year 2009-2010 to 2nd half-year of the year 2014-2015 amounting to Rs. 2,18,913/-."

4. The petitioner cannot challenge the revenue recovery proceedings without challenging the statutory liability for assessing property tax.

In that view of the matter, the writ petition fails. Accordingly, it is dismissed. However, if the petitioner wants to work out any statutory remedy against the liability imposed for property tax, the revenue recovery proceedings shall be deferred for a period of three weeks from today.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE

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