

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 7510 of 2015 (K)

PETITIONER(S):

**KRISHNAN KUTTY KADAMBIL,
INN STYLE, NEAR GOVERNMENT HOSPITAL BUILDING,
NO.XVII/36, KUHUPARAMBA, KANNUR-670 643.**

**BY ADVS.DR.K.P.PRADEEP
SRI.T.T.BIJU
SRI.K.P.KESAVAN NAIR
SMT.T.THASMI**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY TO TAXES
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. COMMISSIONER OF COMMERCIAL TAXES
DEPARTMENT OF COMMERCIAL TAXES, GOVERNMENT OF KERALA
TAX TOWERS, KARAMANA, THIRUVANANTHAPURAM-695 002.**
- 3. COMMERCIAL TAX OFFICER
DEPARTMENT OF COMMERCIAL TAXES, KUTHUPARAMBA
KANNUR-670 643.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE COVERING LETTER SUBMITTED FOR
SURRENDERING REGISTRATION CERTIFICATE NO. PIN-32441261210P
BY THE PETITIONER TO THE 3RD RESPONDENT
- EXT.P2. TRUE COPY OF THE PROFESSIONAL TAX RECEIPT NO.88708 DATED
19/9/2014 ISSUED BY THE SECRETARY, KUTHUPARAMBA
MUNICIPALITY, KANNUR DISTRICT.
- EXT.P3. TRUE COPY OF THE RECEIPT NO.55 FOR JANUARY-DECEMBER 2014,
ISSUED BY M.A.FAHMIDA, TO THE PETITIONER
- EXT.P4. TRUE COPY OF THE RENT RECEIPT NO.86 FOR JANUARY-
DECEMBER 2015, ISSUED BY M.A.FAHMIDA, TO THE PETITIONER
- EXT.P5. TRUE COPY OF THE LEASE DEED DATED 23/10/1991 ISSUED BY
AYISUMMA TO THE PETITIONER
- EXT.P6. TRUE COPY OF THE NOTICE DATED 5/3/1997 ISSUED BY AYISUMMA
TO THE PETITIONER
- EXT.P7. TRUE COPY OF THE CONSENT LETTER SUBMITTED BY FAHMIDA
M.A.TO THE 3RD RESPONDENT
- EXT.P8. TRUE COPY OF THE NOTICE NO.A-354/2015 DATED 27/2/2015 ISSUED
BY THE 3RD RESPONDENT TO THE PETITIONER REJECTING HIS
APPLICATION FOR REGISTRATION DATED 11/2/2015.
- EXT.P9. TRUE COPY OF THE CIRCULAR NO.10/2006 DATED 28/2/2006 ISSUED BY
THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 7510 of 2015

Dated this the 23rd day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P8 notice that was served on the petitioner by the 3rd respondent. The said notice was issued to the petitioner pursuant to an application, that was preferred by the petitioner for registration under the Kerala Value Added Tax Act, hereinafter referred to as 'KVAT Act'. In Ext.P8 notice, the 3rd respondent has directed the petitioner to furnish documents to support his application for registration within a stipulated time, failing which, it is informed that the registration application will be rejected.

2. The learned counsel for the petitioner would submit that, while he had approached the 3rd respondent, after submitting an application, he was informed by the 3rd respondent that he would have to support his application with a valid lease deed for the purpose of proving that the premises, in which he is proposing to conduct business, is on a valid lease from the owner of the premises. The contention of the petitioner is that he is holding over the premises, based on a lease that was granted by the erstwhile owner, who is the mother of the present owner of the building and inasmuch as he is continuing to occupy the premises based on a

statutory tenancy as recognized in law, it is not possible for him to get a fresh lease deed to cover the year in question.

3. I have heard the learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondent as well.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that Ext.P8 is only a notice that is issued to the petitioner asking him to produce documents to support his application for registration. Taking note of the apprehension of the petitioner that the 3rd respondent will not accept any document, other than a lease deed, to consider the case of the petitioner, that he is carrying on the business in leased premises, I direct the 3rd respondent to consider the application submitted by the petitioner, after taking note of the materials produced by the petitioner to substantiate his contentions with regard to the application submitted by him. The 3rd respondent will also have to take note of the law governing the lease of premises, inasmuch as it is the petitioner's contention that he is continuing in the premises as a statutory tenant and not

pursuant to a fresh lease deed, that has been executed by the present owner, in favour of the petitioner. The 3rd respondent is directed to pass orders on the application submitted by the petitioner, within a period of three weeks from the date of receipt of a copy of this judgment. To enable the 3rd respondent to do so, I direct the petitioner to appear before the 3rd respondent, at 11 AM on 30.03.2015 with all documents to support his application.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE