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. 7752 of 2015 (T)

PETITIONERS:
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1. **REBIN ABRAHAM, AGED 40 YEARS,**
   S/O. M.A. ABRAHAM, MATTATHIL MANNULLIL, BANK ROAD,
   KALOOR, COCHIN-17.

2. **SANDRA RABIN, AGED 36,**
   W/O. REBIN ABRAHAM, MATTATHIL MANNULLIL, BANK ROAD
   KALOOR, COCHIN-17.
   BOTH PETITIONERS REPRESENTED BY POWER
   OF ATTORNEY M.A.ABRAHAM,
   AGED 77 YEARS, S/O. LATE M.J.ABRAHAM
   MATTATHIL MANNULLIL, BANK ROAD, COCHIN-27.

   BY ADVS.SRI.GEORGE VARGHESE (MANACHIRACKEL)
   SRI.P.R.MILTON
   SMT.SALI. P. MATHEW (MUNNAR)

RESPONDENT(S):

THE TAHSILDAR, KANAYANNUR TALUK
ERNAKULAM, KOCHI - 682 011
(ASSESSING AUTHORITY UNDER THE KERALA
BUILDING TAX ACT 1975).

BY GOVERNMENT PLEADER SMT.SHOBA ANNAMMA EAPEN

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

AD/

WP(C).No. 7752 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE OCCUPANCY CERTIFICATE DATED 23-9-2014 ISSUED BY THE CORPORATION OF COCHIN TO THE PETITIONER.

EXHIBIT P2- TRUE COPY OF THE RETURN SUBMITTED BY THE PETITIONER UNDER SECTION 7 & 8 OF THE KERALA BUILDING TAX ACT 1975.

EXHIBIT P3- TRUE COPY OF THE ASSESSMENT ORDER DATED NIL ISSUED BY THE RESPONDENT TO THE PETITIONER NO. B1-22086/14.

EXHIBIT P4- TRUE COPY OF THE DEMAND NOTICE DATED 9-2-2015 ISSUED BY THE RESPONDENT TO THE PETITIONER NO. B1-22086/14.

EXHIBIT P5- TRUE COPY OF THE BUILDING TAX RECEIPT DATED 26-2-2015 ISSUED BY THE VILLAGE OFFICER, ELAMKULAM.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 7752 of 2015

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Dated this the 23rd day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P3 order passed by the respondent, assessing the petitioners' building to building tax. The grievance of the petitioners in the writ petition is essentially that, while they had filed returns showing that the building was comprised partly of residential apartments and partly of office blocks, the assessment by the respondent ignores this aspect and does not contain any reasons for adopting the higher rate of tax, while assessing the building of the petitioners' to building tax.

2. I have heard the learned counsel appearing for the petitioners and the learned Government Pleader for the respondent.

3. On a consideration of the facts and circumstance of the case and the submissions made across the bar, I find that in Ext.P3, there are no reasons forthcoming as to why the building had to be assessed at the rate shown in Ext.P3. This is more so, when the petitioners in their returns have shown the building to be comprised of five flats and an office. The petitioners also point out

that the plinth area adopted by the respondent is on the higher side.

4. Under the said circumstances, I quash Exts.P3 and P4 and direct the respondent to reconsider the matter and assess the building tax liability of the petitioners afresh, after affording the petitioners an opportunity of being heard. The respondent shall pass fresh orders within a period of two months from the date of receipt of a copy of this judgment. To enable the respondent to do this, I direct the petitioners to appear before the respondent at 11 AM on 07.04.2015 together with any material, that they wish to rely on, in support of their contentions with regard to the manner of assessment. The amounts already paid by the petitioner towards building tax shall be adjusted towards any demand that is raised by the respondent pursuant to the directions passed in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das