IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No.8073 of 2015 (H)

PETITIONER:

M/S.SHIRE HOMES,VELOOR,KOTTAYAM-686 003,
REPRESENTED BY ITS MANAGING PARTNER.

BY SRI.K.JAJU BABU (SENIOR ADVOCATE.)
ADVS.SMT.M.U.VIJAYALAKSHMI
SRI.T.S.SHYAM PRASANTH

RESPONDENTS:
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1. **THE VILLAGE OFFICER,VELOOR,KOTTAYAM - 686 003.**

2. **THE TAHSILDAR,KOTTAYAM - 686 001.**

3. **THE REVENUE DIVISIONAL OFFICER,**
   KOTTAYAM - 686 001.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.8073 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:COPY OF THE NOTICE DATED 12/11/2014 ISSUED TO THE PETITIONER ALONG WITH THE RETURN OBTAINED BY THE 1ST RESPONDENT.

EXT.P2:COPY OF THE NOTICE DATED 12/11/2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P3:COPY OF THE OCCUPANCY CERTIFICATE DATED 12/07/2013 ISSUED TO THE PETITIONER BY THE KOTTAYAM MUNICIPALITY.

EXT.P4:COPY OF THE NOTICE OF ASSESSMENT OF BUILDING TAX NO. R.P.16782/2014 DATED 17/10/2014 ISSUED BY THE MUNICIPALITY.

EXT.P5:COPY OF THE NOTICE NO.R-9-25110/2014 DATED 01/12/2014 ISSUED BY THE MUNICIPALITY TO ONE OF THE PURCHASERS OF FLAT.

EXT.P6:COPY OF THE ASSESSMENT ORDER NO. D3-17618/14 DATED 03/03/2015 (WRONGLY TYPED AS 03/03/2014) ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 8073 of 2015
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Dated this the 13th day of March, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P6 order of assessment, passed against the petitioner under the Kerala Building Tax Act. The contention of the petitioner in the writ petition is that the building, which is an apartment complex comprising of 11 floors and 109 flats, and was under the separate ownership of various persons, was assessed as a single unit by the 2nd respondent assessing authority. It is the case of the petitioner that while he had, in response to the notice issued to him, produced materials before the 2nd respondent to show that the different apartments had to be assessed as separate units for the purpose of building tax and further, the plinth area was different from what was shown in the notice issued to him, the 2nd respondent has completed the assessment, without citing any reasons. In Ext.P6 order that is issued to the petitioner, there is no consideration of the material produced by the petitioner or the contentions advanced by him.

2. I have heard Sri.K.Jaju Babu, the learned senior counsel appearing for the petitioner and also Smt.Sobha Annamma Eappen,

the learned Government Pleader appearing 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 Ext.P6 is a non-speaking order which does not reflect a consideration of the materials produced by the petitioner before the 2nd respondent for substantiating his contentions with regard to the manner in which the assessment had to be done in respect of the building in question. The petitioner also has a contention that the plinth area adopted by the 2nd respondent is factually wrong.

4. In that view of the matter, I quash Ext.P6 order and direct the 2nd respondent to complete the assessment, in relation to the building in question, afresh in accordance with the provisions of the Kerala Building Tax Act, after affording the petitioner and the individual apartment owners, an opportunity of being heard. The 2nd respondent shall cause a notice to be issued to all the relevant persons, posting the case for hearing on 07.04.2015. The petitioner shall also appear before the 2nd respondent at his office on 07.04.2015 for hearing. The petitioner shall produce all the

materials, to substantiate his contentions with regard to the separate assessment of the individual apartments, to the 2nd respondent within two weeks from today. The 2nd respondent shall pass orders of assessment within a period of one month after the date of hearing.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das