IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 8557 of 2015 (T)

PETITIONER(S):

SHAJAN MATHEW, S/O.MATHEW,
AGED 57 YEARS, KOCHUVEMBILLIL HOUSE,
KANJIRAMATTOM KARA, THODUPUZHA.

BY ADV. SRI.JOHN VIPIN

RESPONDENT(S):

1.THE STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.

2.THE TAHSILDAR,
THODUPUZHA, MINI CIVIL STATION, THODUPUZHA 685 585.

3.VILLAGE OFFICER, VILLAGE OFFICE,
THODUPUZHA. 685 585.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.8557/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE COMPLETION PLAN SUBMITTED BEFORE THE MUNICIPALITY DATED 4.2.2009.

EXT.P2: COPY OF THE ASSESSMENT ORDER OF THE TAHSILDAR DATED 16.2.2008.

EXT.P3: COPY OF THE JUDGMENT IN W.P.(C).NO.6912/12 DATED 20.3.12.

EXT.P4: COPY OF THE RECEIPT FOR PAYING THE LUXURY TAX FOR THE YEARS 2007-08 TO 2013 WITH INTEREST AMOUNTING TO RS.13,700/- WHICH IS DATED 9.4.12.

EXT.P5: COPY OF THE LETTER DATED 2.3.2015 ISSUED BY THE TAHSILDAR TO THE PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8557 OF 2015 (T)

Dated this the 18th day of March, 2015

J U D G M E N T

The challenge in the writ petition is against the levy of luxury tax on the building owned by the petitioner, in terms of Section 5A of the Kerala Building Tax Act. While in the writ petition, the petitioner has challenged the levy of luxury tax on the building from 2007-08 onwards, I find that the challenge to the levy, in respect of the period from 2007-08 till 2014-15, cannot be entertained in this writ petition since, by virtue of Ext.P3 judgment, the matter has already attained finality. In that view of the matter, the demand of luxury tax for the period from 2007-08 to 2014-15 is not interfered with in this writ petition. I take note, however, of the submission of counsel for the petitioner that the plinth area of the building is not such as would attract the levy of luxury tax under the Kerala Building Tax Act. Under these circumstances, while dismissing the present writ petition, in its challenge against the levy of luxury tax for the period from 2007-08 to 2014-15, I make it clear that any future levy of luxury tax on the building owned by the petitioner will only be after a fresh determination of plinth area of the building by the 2nd respondent Assessing authority. The Assessing authority shall give due notice of the date on which he proposes to measure the plinth area of the building of the petitioner, so as to enable the petitioner also to be present at the time of taking measurement. The assessment of luxury tax for the future period shall be done only in accordance with the measurement done as per the aforementioned direction. The petitioner shall produce a copy of this judgment before the 2nd respondent.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp