

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 8774 of 2015 (V)

PETITIONER(S) :

**KAMALASANAN, AGED 64 YEARS,
S/O.KOCHUKUNJU, KAMAL BHAVAN,
ELAVUMTHITTA P.O AND MURI,
MEZHUVELI PANCHAYATH AND VILLAGE, KOZHENCHERRY TALUK,
PATHANAMTHITTA DISTRICT, PIN - 689 625.**

**BY ADVS.SRI.V.SETHUNATH
SRI.V.R.MANORANJAN (MUVATTUPUZHA)**

RESPONDENT(S) :

**THE MEZHUVELI GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
NEDIYAKALA, ELAVUMTHITTA P.O., PIN- 689 625.**

BY ADV. SRI.C.S.MANILAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSEON
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: TRUE COPY OF THE COMMON JUDGMENT IN
W.P.(C).NO.8216/2014 AND W.P(C).NO.8758/2013 ON THE FILE OF
THIS COURT.**
- EXHIBIT-P2: TRUE COPY OF THE APPLICATION GIVEN BY THE PETITIONER
BEFORE THE RESPONDENT PANCHAYATH FOR TAX REMISSION
ALONG WITH ITS ENGLISH TRANSLATION.**
- EXHIBIT-P3: TRUE COPY OF THE LETTER ISSUED BY THE SECRETARY OF
THE RESPONDENT PANCHAYATH ALONG WITH ENGLISH
TRANSLATION.**
- EXHIBIT-P4: TRUE COPY OF THE DEMAND NOTICE ISSUED BY
THE SUBORDINATE OFFICERS UNDER THE SECRETARY OF
THE RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.**
- EXHIBIT-P5: TRUE COPY OF THE TAX APPEAL PREFERRED BY
THE PETITIONER FOR VACANCY REMISSION ALONG WITH ITS
ENGLISH TRANSLATION.**
- EXHIBIT-P6: TRUE COPY OF THE APPLICATION/APPEAL SUBMITTED BY
THE WRIT PETITIONER TO THE PANCHAYATH COMMITTEE.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.8774 of 2015

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Dated this the 26th day of May, 2015

JUDGMENT

The petitioner is the owner in possession of building nos.IX/ 86-A,B,C,D,E,F,G,H,I under the respondent panchayat. He alleges that although commercial buildings having an area of 7000 sq. feet is constructed only an area of 2200 sq.feet is let out due to the fact that there was encroachment by two others in the PWD road in front of the commercial building who unauthorisedly erected temporary sheds and obstructed commercial utility of the building on 17.11.2012.

2. The unauthorised construction was challenged before this Court in W.P(C) Nos.8216 of 2014 and 8758 of 2013 wherein a common judgment was passed and removal of the illegal construction is in progress. The petitioner had applied to the respondent panchayat for tax remission to the non occupied building on 16.11.2013 as the major portion of the building view is blocked by the unauthorised construction. The respondent panchayat on 10.2.2014 gave Ext.P3 reply to the petitioner stating

that his building is eligible for vacancy remission if it is not occupied by him or not rented out to third parties.

3. However, contrary to Ext.P3 reply, a demand notice has been issued to the petitioner stating that entire tax should be remitted immediately. Therefore, the petitioner preferred an appeal before the standing committee of the respondent alleging that only building nos.86-F, 86-G and 86-H had been rented out and building nos.86-A, 86-B, 86-C, 86-D, 86-E and 86-I are lying vacant due to the fact that the unauthorised occupation in the PWD road has blocked the building view.

4. The petitioner states that he is ready to pay the arrears of tax to building nos.86F, G & H which, according to the petitioner, amounts to ₹16,498/- and he is ready to deposit that amount. However, the respondent is not accepting it. It is with this background, the petitioner has approached this Court.

5. When the matter came up for hearing, the learned counsel for the petitioner submitted that Ext.P6 appeal is now pending before the standing committee and the petitioner is satisfied if a direction is given to the standing committee of the panchayat to consider and pass orders on Ext.P6 within a time frame.

Therefore, the writ petition is disposed of directing the standing committee of the respondent panchayat to consider and pass appropriate orders on Ext.P6 appeal, after affording the petitioner an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment.

To facilitate early action, it shall be open to the petitioner to produce a copy of the writ petition as well as copy of this judgment before the respondent panchayat at the earliest.

asd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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