IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 8901 of 2015 (K)

PETITIONER(S)/PETITIONER:
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K.A.MATHEW @ ABRAHAM MATHEW, AGED 70 YEARS
S/O. C.M.ABRAHAM, PEARL SQUARE BUILDING
THOTTAMAN P.O., RANNI, PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.JAMES KURIAN
SRI.SANTHOSH MODAYIL

RESPONDENT(S)/RESPONDENTS:
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1. **THE DISTRICT COLLECTOR**
   COLLECTORATE, PATHANAMTHITTA-689645.

2. **THE REVENUE DIVISIONAL OFFICER**
   REVENUE DIVISIONAL OFFICE, THIRUVALLA.

3. **THE TAHSILDAR**
   TALUK OFFICE, RANNI, PATHANAMTHITTA-689672.

R BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8901 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- COPY OF THE OCCUPANCY CERTIFICATE ISSUED BY THE RANNI GRAMA PANCHAYATH DATED 29-8-2006.

EXHIBIT P2- COPY OF THE ASSESSMENT ORDER PASSED BY THE 3RD RESPONDENT DATED

EXHIBIT P3- COPY OF THE TAX RECEIPT ISSUED THE VILLAGE OFFICER DATED 5-3-2014.

EXHIBIT P4- COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT NO. KBT/4919/14 DATED 27-6-2014.

EXHIBIT P5- COPY OF THE PLAN OF THE 1ST FLOOR INCLUDING RESIDENTIAL AREA OF THE PETITIONER.

EXHIBIT P6- COPY OF THE DEMAND NOTICE DATED 17-1-2015.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8901 OF 2015 (K)

Dated this the 20th day of March, 2015

<u>J U D G M E N T</u>

The challenge in the writ petition is against an order confirming the demand of luxury tax in respect of a building owned by the petitioner under the Kerala Building Tax Act. The demand against the petitioner is in respect of the assessment year 2014-15. The facts in the writ petition would disclose that the petitioner has been subjected to the levy of luxury tax in respect of the building from the assessment year 2000-01 onwards, but on account of circumstances beyond his control, he could not file an appeal against the said assessments till date. At any rate, it is his submission that insofar as the levy of luxury tax is a yearly levy, the mere fact that appeals were not preferred in the earlier assessment years will not stand in the way of the petitioner preferring an appeal against the demand for levy of luxury tax for the assessment year 2014-15. It is further submitted that the rate of tax has been enhanced and he has been called upon to pay the differential amount of Rs.2,000/- towards luxury tax for the year in question. His prayer in the writ petition is for a direction to the respondents to consider and pass orders in the appeal that he proposes to file challenging the levy of luxury tax in respect of the buildingfor the year 2014-15.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that against the demand of luxury tax in Ext.P4 communication of the Assessing authority, the petitioner can prefer an appeal before the 2nd respondent. Thus, leaving it open to the petitioner to pursue his appellate remedy against Ext.P4 demand before the 2nd respondent Appellate authority, I dismiss the writ petition, in its challenge against Ext.P4 order.

Counsel for the petitioner seeks some time to prefer an appeal before the 2nd respondent Appellate authority. Taking note of the said submission of counsel for the petitioner, I make it clear that if the petitioner prefers an appeal against Ext.P4 demand of luxury tax before the 2nd respondent in respect of the building for the assessment year 2014-15, within a period of three weeks from today, then further proceedings for recovery of the said tax from the petitioner shall be kept in abeyance for the duration of three weeks granted to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp