

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 10315 of 2015 (L)

PETITIONER:

**B.MUHAMMEDKHAN,
AGED 74 YEARS, S/O.BABA SAHIB,
CHAIRMAN, PALMSHORE HOTELS PVT.LTD.,
LIGHT HOUSE ROAD, VIZHINJAM.P.O.,
THIRUVANANTHAPURAM.**

BY ADV. SRI.P.ANOOP (MULAVANA)

RESPONDENT(S):

- 1. THIRUVANANTHAPURAM CORPORATION,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE SECRETARY,
THIRUVANANTHAPURAM CORPORATION,
THIRUVANANTHAPURAM - 695 001.**

BY SRI.P.K.MANOJKUMAR, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 10315 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF THE COMPLAINT FORWARDED BY THE PETITIONER
TO THE 2ND RESPONDENT ON 24.12.2013.**

**EXHIBIT P2 : TRUE COPY OF THE REPLY DATED 7.10.2014 FROM THE
1ST RESPONDENT TO THE PETITIONER.**

**EXHIBIT P3 : TRUE COPY OF THE APPLICATION FORWARDED TO THE
2ND RESPONDENT DATED 10.3.2015.**

**EXHIBIT P4 : TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT
DATED 10.3.2015.**

**EXHIBIT P5 : TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE
1ST RESPONDENT ON 2.3.2015.**

RESPONDENT'S EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 10315 of 2015

Dated this the 31st day of March, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, who was running a hotel in his building in T.C. No.2/480(49), Pattom Village, Thiruvananthapuram Taluk, had to close the said hotel owing to the directions from the Corporation. There afterwards, he sold away a portion of the said building to another person. Since the building was kept unused, when the purchaser applied for vacancy remission, it was allowed. In the case of the petitioner, who is also said to have kept the building vacant ever seeks the closure of the hotel, no such indulgence was shown by the respondent Corporation.

Having filed an application in Exhibit P3 for vacancy remission, complaining of its non consideration the petitioner has filed the present writ petition.

3. The learned Standing Counsel for the respondent Corporation has submitted that the petitioner ought to have filed an application for vacancy remission before the property had been actually assessed for tax for the financial year. He has further contended that once the property has been assessed, the only remedy available to the petitioner is to file a statutory appeal against the said order of demand. In this regard, the learned Standing Counsel has drawn my attention to Section 239 (3) (a) of the Kerala Municipality Act.

4. Be that as it may, it is evident that the petitioner has filed Exhibit P3 application before the respondent Corporation. For whatever reason, if the respondent Corporation is of the opinion that the petition cannot be sustained, they are at liberty to say the same thing and pass an order thereon, leaving it open for the petitioner to seek further remedies, if he desires.

5. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation, this Court, without expressing any opinion on the merits of the matter, disposes of the writ petition with a direction to the respondent Corporation to consider petitioner's Exhibit P3 application, keeping in view Section 239 of the Act and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

With the above observations, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-