

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WP(C).No. 10377 of 2015 (V)

PETITIONER(S):

1. K.P.IBRAHIM RAWTHER, AGED 70 YEARS,
PALLIMUKKIL HOUSE, THODUPUZHA P.O., 685584.
2. K.I.JAMAL,
S/O.IBRAHIM RAWTHER, PALLIMUKKIL HOUSE,
THODUPUZHA P.O., 685584.
3. K.I.SHAJI,
S/O.IBRAHIM RAWTHER, PALLIMUKKIL HOUSE,
THODUPUZHA P.O., 685584.

BY ADV. SRI.JOHN VIPIN

RESPONDENT(S):

1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT ,
DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
2. THE TAHSILDAR,
THODUPUZHA, MINI CIVIL STATION, THODUPUZHA-685584.
3. VILLAGE OFFICER,
VILLAGE OFFICE, THODUPUZHA-685584.

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1:** TRUE COPY OF THE COMPLETION PLAN SUBMITTED BEFORE THE MUNICIPALITY.
- EXHIBIT-P2:** TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER AND HIS SONS FOR CHANGE OF TARIFF OF BUILDING TAX.
- EXHIBIT-P3:** TRUE COPY OF THE DEMAND NOTICE ISSUED REFIXING THE BUILDING TAX AFTER CONVERSION WHICH WAS RECEIVED ON 7/11/2012.
- EXHIBIT-P4:** TRUE COPY OF ANOTHER COMPLETION PLAN SHOWING THE AREA CONVERTED AS RESIDENTIAL WHICH IS SEPARATELY MARKED.
- EXHIBIT-P5:** EXPANDED PLAN SHOWING THE RESIDENTIAL AREA IN THE FIRST FLOOR.
- EXHIBIT-P6:** TRUE COPY OF THE EXPANDED PLAN SHOWING THE RESIDENTIAL AREA IN THE SECOND FLOOR.
- EXHIBIT-P7:** TRUE COPY OF THE RECEIPT FOR PAYING THE PROPERTY TAX FOR THE BUILDING NO.VII/631-B2.
- EXHIBIT-P8:** TRUE COPY OF THE RECEIPT FOR PAYING PROPERTY TAX FOR BUILDING WITH NO.VII/631-C7.
- EXHIBIT-P9:** TRUE COPY OF THE RECEIPT FOR PAYING PROPERTY TAX FOR THE BUILDING WITH NO.VII/631-C8.
- EXHIBIT-P10:** TRUE COPY OF THE ELECTRICITY BILL DATED 18/2/15 IN RESPECT OF BUILDING NO.VII/631-B2.
- EXHIBIT-P11:** TRUE COPY OF THE ELECTRICITY BILL IN RESPECT OF BUILDING NO.VII/631-C7 DATED 18/02/2015.
- EXHIBIT-P12:** TRUE COPY OF THE ELECTRICITY BILL IN RESPECT OF BUILDING NO.VII/631-C8 DATED 18/02/2015.
- EXHIBIT-P13:** TRUE COPY OF RATION CARD NO.162800063 DATED 2/11/12 OF 1ST PETITIONER.
- EXHIBIT-P14:** TRUE COPY OF RATION CARD NO.1628090005 DATED 2/11/12 OF 3RD PETITIONER.
- EXHIBIT-P15:** TRUE COPY OF THE ORDER DATED 26/6/07 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

A.MUHAMED MUSTAQUE, J.

W.P.(C).No. 10377 of 2015

Dated this the 25th day of May, 2015

J U D G M E N T

The petitioner and his two children constructed a building complex in the Thodupuzha town. This building consists residential as well as commercial units. The building was assessed for building tax and luxury tax.

2. It is now submitted that the residential units are separated and total plinth area of the residential unit has to be taken into account for the purpose of luxury tax. It is submitted that the residential building is having separate building number. It is also submitted that original assessment itself is erroneous. In the above circumstances, the petitioners declare that the order passed by the authority is illegal.

3. It is to be noted that the assessment was completed in the year 2007 itself and the petitioners paid the luxury tax. If the petitioners paid the luxury tax under

mistake or based on subsequent events, the petitioners want to reconsider the same, the petitioner is at liberty to approach the authority concerned. If such a request is made, the authority shall take a decision in the matter after affording an opportunity of hearing to the petitioner.

4. In that circumstances, The petitioners shall approach the Tahsildar concerned within a period of two weeks. Thereafter, the Tahsildar shall take a decision after issuing notice to the petitioners and also, if necessary after conducting a site inspection within further period of two months. Till a decision is taken in the matter, no coercive steps shall be initiated against the petitioner.

The writ petition is disposed of as above

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**A.MUHAMED MUSTAQUE,
JUDGE**

jm/