IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 10770 of 2015 (U)

PETITIONER(S):

SASIDHARAN @ SASI, AGED 63 YEARS,
S/O.VASU, SASI NIVAS, NEDUNGOLAM,
KOLLAM DISTRICT.

BY ADV. SMT.G.VIDYA

RESPONDENT(S):

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1. STATE OF KERALA,
   REPRESENTED BY THE PRINCIPAL SECRETARY,
   DEPARTMENT OF REVENUE (SPECIAL CELL),
   SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.

2. REVENUE DIVISIONAL OFFICER,
   CIVIL STATION, KOLLAM-691001.

3. THAHASILDAR, KOLLAM TALUK,
   KOLLAM DISTRICT-691001.

4. VILLAGE OFFICER, PARAVOOR VILLAGE,
   KOLLAM-691301.

BY GOVERNMENT PLEADER SRI.P.FAIZAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 10770 of 2015 (U)
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APPENDIX

PETITIONERS' EXHIBITS

P1: **COPY OF THE NOTICE ISSUED BY THE R3 DATED 23/10/07**

P2: **COPY OF THE LETTER ISSUED FROM THE CHATHANNOOR GRAMAPANCHAYATH DATED 6/8/11**

P3: **COPY OF THE NOTICE ISSUED BY THE R4 DATED 12/2/15**

P4: **COPY OF THE NOTICE ISSUED BY THE R1 DATED 23/1/15**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.10770 of 2015

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Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner who had constructed a residential house in 1984 and renovated the same in the year 2007, is aggrieved by the levy of luxury tax on the building constructed by him. It is the case of the petitioner that although, he did not challenge the levy of luxury tax on the building in the past years, the levy of luxury tax being a yearly levy, the respondents cannot levy luxury tax on the building if it is demonstrated that the building does not have the plinth area that is required for attracting the levy.

3. I have heard the learned counsel for the petitioner as also the learned Government Pleader appearing on behalf of the respondents.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the petitioner has paid luxury tax in respect of the building constructed by him up to the assessment year 2014-2015. It is the case of the petitioner in the writ petition that the building in question does not

have the plinth area sufficient to attract the levy of luxury tax. This is a matter of verification and the contention of the petitioner is necessarily to be gone into by the statutory authorities under the Building Tax Act. Inasmuch as the petitioner has already paid the tax for the assessment year 2014-2015, and taking into account the plea of the petitioner that the building does not actually attract the levy of luxury tax, I dispose the writ petition with the following directions:

i. If the petitioner prefers an appeal against the luxury tax payments effected for the assessment year 2014-2015 within a period of one month from today, the 2nd respondent appellate authority shall consider the appeal of the petitioner on merits and pass orders in the appeal within a period of two months from thereafter after hearing the petitioner.

ii. The 2nd respondent shall, on receipt of appeal from the petitioner, cause a measurement of the building to be done by the 3rd and the 4th respondents after notice to the petitioner. The finalization of the appeal shall be done only after obtaining a report from the 3rd and 4th respondents with regard to the plinth area of the building in question.

iii. The luxury tax assessment of the petitioner for the assessment years subsequent to 2014-

2015 shall be based on the findings of the 2^{nd} respondent in the appeals to be preferred by the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns