

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 11300 of 2015 (J)

PETITIONER :

**BIJU THOMAS, S/O. THOMAS, AGED 45 YEARS,
CHETTIYAMKUDIYIL HOUSE, PAINGOTOOR,
KADAVOOR VILLAGE, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.V.BABY
SRI.A.N.SANTHOSH**

RESPONDENTS :

- 1. THASILDAR, KOTHAMANGALAM,
ERNAKULAM DISTRICT - 686 691.**
- 2. REVENUE DIVISIONAL OFFICER, MUVATTUPPUZHA,
ERNAKULAM DISTRICT-686661**
- 3. DISTRICT COLLECTOR,
ERNAKUALM - 682 030.**
- 4. STATE OF KERALA REPRESENTED BY ITS SECRETARY TO REVENUE,
DEPARTMENT, SECRETARIAT, TRIVANDRUM - 695 001.**

**R1 TO R4 BY SENIOR GOVERNMENT PLEADER
SMT. SHOBA ANNAMMA EAPPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE PHOTOSTAT COPY OF THE BUILDING PERMIT DATED 22.9.11 ISSUED OF THE SECRETARY PAINGOTOORE GRAMA PANCHAYAT
- P2: TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 14.5.13 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P3: TRUE PHOTOSTAT COPY OF THE ASSESSMENT ORDER DATED 12.6.13 ISSUED BY THE 1ST RESPONDENT.
- P4: TRUE PHOTOSTAT COPY OF THE RECEIPT DATED 25.6.13.
- P5: A TRUE PHOTOSTAT COPY OF THE APPEAL DATED 1.7..2013 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- P6: A TRUE PHOTOSTAT COPY OF THE ORDER DATED 23.11.2013 ISSUED BY THE 2ND RESPONDENT
- P7: A TRUE PHOTOSTAT COPY OF THE REVISION PETITION DATED 22.2.2014 BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- P8: A TRUE PHOTOSTAT COPY OF THE RECEIPT DATED 18.2.14.
- P9: A TRUE PHOTOSTAT COPY OF THE ORDER DATED 29.5.14 ISSUED BY THE 3RD RESPONDENT.
- P10: A TRUE PHOTOSTAT COPY OF THE REVISION PETITION DATED 8.8.14 BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- P11: A TRUE PHOTOSTAT COPY OF THE REPORT DATED 24.9.14 OF THE 1ST RESPONDENT TO THE 4TH RESPONDENT
- P12: A TRUE PHOTOSTAT COPY OF THE WRITTEN SUBMISSION DATED 26.9.14 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- P13: A TRUE PHOTOSTAT COPY OF THE ORDER DATED 27.10.2014 ISSUED BY THE 4TH RESPONDENT.
- P14: A TRUE PHOTOSTAT COPY OF THE REVIEW PETITION DATED 28.1.2015 BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- P15: A TRUE PHOTOSTAT COPY OF THE ORDER DATED 13.2.15 ISSUED BY THE 4TH RESPONDENT CONSIDERING EXT P-14.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 11300 of 2015

Dated this the 29th day of July, 2015

J U D G M E N T

The petitioner has approached this Court challenging luxury tax levied under the Building Tax Act.

2. The case of the petitioner is that, the total plinth area of the building is only 170.78 square meter and the roof top has been assessed for the purpose of reckoning total plinth area. According to the petitioner, it is illegal.

3. It is seen from the impugned order that, the roof top is having side cover and it is not being used as a weather proof but rather as a utility room and therefore it is liable to be assessed. It is seen that roof top portion is covered with tiles and aluminum sheets and side areas is covered with the walls. The luxury tax has been assessed taking note of the factual aspects as above, there is no infirmity with the order passed. However, in the event the petitioner is able to point out that the side wall is removed, necessarily such portion has to be excluded after conducting site inspection. That would be only applicable for future liability, if

petitioner brings materials before the authority to prove that they have removed the covered area.

With the above observations, this writ petition is dismissed.

**Sd/-
A. MUHAMED MUSTAQUE, JUDGE.**

Pn