IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WP(C).No.11617 of 2015 (B)

PETITIONER:

M.RADHAKRISHNAN,AGED 57 YEARS,
S/O.K.P.VASUDEVAN NAIR,FLAT NO S-2,41/1039,
OLD NO.11/788(8) FORT CHARIOT 788,VRINDAVAN COLONY,
PALAKKAD-678001.

BY ADVS.SRI.A.T.ANILKUMAR
SMT.V.SHYLAJA

RESPONDENTS:
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1. THE PALAKKAD MUNICIPALITY,
REP. BY ITS SECRETARY,PALAKKAD.

2. THE SECRETARY,PALAKKAD MUNCIPALITY,
PALAKKAD.

R1,R2 BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.11617 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE SALE DEED OF ABOVE REFERRED FLAT.

EXT.P2:THE TRUE COPY OF THE NOTICE ISSUED FROM THE MUNICIPALITY WITH ENGLISH TRANSLATION.

EXT.P3:THE TRUE COPY OF THE TAX RECEIPT OF THE PETITIONER WITH ENGLISH TRANSLATION.

EXT.P4:THE TRUE COPY OF THE TAX RECEIPT OF THE BUILDING BELONGS TO SMT.RADHA PADMINI WITH ENGLISH TRANSLATION.

EXT.P5:THE TRUE COPY OF THE REPRESENTATION.

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

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W.P.(C) No. 11617 of 2015

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Dated this the 20th day of May, 2015

J U D G M E N T

The petitioner, who is the owner of a flat on the second floor of the building complex, has approached this Court aggrieved by the building tax assessment by the Secretary of the respondent municipality.

2. The petitioner purchased the aforesaid flat in the year 2011. The plinth area of the same is 1072Sq.feet. The petitioner alleges that another occupant, by name, Radhapadmini, of another flat having the same extent, has been assessed building tax @ ₹682/- for six months whereas the petitioner's flat has been assessed for building tax by the respondent municipality @ ₹2,250/- for six months. According to the petitioner, the stand taken by the respondent municipality is illegal as the building tax assessed by them for the flat in the same building having the same area is lesser. It is also alleged that the petitioner has submitted a representation for reconsideration and to

get the building tax reduced.

3. The respondent municipality appeared through its Standing Counsel, who submitted that as per Section 509(2) of the Kerala Municipality Act, an appeal against any notice or order of the Secretary on the levy of tax, may be preferred to the Standing Committee for Finance in the case of Town Panchayat or Municipal Council.

4. As rightly submitted by the learned Standing Counsel, the writ petition is barred on account of the alternate remedy provided under Section 509(2) of the Kerala Municipality Act.

Therefore, the writ petition is disposed of reserving the liberty of the petitioner to approach the Standing Committee for Finance with an appeal as provided under Section 509(2) of the Kerala Municipality Act within a period of two weeks from today.

Sd/-

A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-