

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12348 of 2015 (P)

PETITIONER(S):

**HASSAN HAJI AGED 45 YEARS
KARUVATH HOUSE, PATHAIKARA, PERUNTHALMANNA**

**BY ADVS.SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SRI.MANU SEBASTIAN
SMT.PARVATHY NAIR**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, COLLECTORATE,
MALAPPURAM- 676 505**
- 2. REVENUE DIVISIONAL OFFICER, REVENUE DIVISIONAL OFFICE,
PERINTHALMANNA-679 322**
- 3. TAHSILDAR, TALUK OFFICE, PERINTHALMANNA- 679 322**

R BY GOVERNMENT PLEADER, SMT. SOBHA ANNAMMA EAPPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 12348 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF BUILDING PERMIT No.BA NO.382/2000-01 DATED
14.03.2001.**
- EXHIBIT P2 TRUE COPY OF ASSESSMENT ORDER DATED 22.09.2014 PASSED BY
THE 3RD RESPNDENT.**
- EXHIBIT P3 TRUE COPY OF NOTICE OF DEMAND DATED 22.09.2014 ISSUED BY
THE 3RD RESPONDENT.**
- EXHIBIT P4 TRUE COPY OF RECEIPT DATED 29.09.2014.**

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 12348 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P2 order and P3 demand notice issued against the petitioner in connection with a levy of tax under the Kerala Building Tax act. The contention of the petitioner in the writ petition is that the order was passed without issuing any notice to the petitioner and without hearing the petitioner. It is the contention of the petitioner therefore, that Ext.P2 order was passed in gross violation of the principles of natural justice.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that in Ext.P2 order, there is no reference to a notice having been served on the petitioner prior to passing of the order. That apart, Ext.P2 order is silent with regard to the basis on which the assessment has been done on the petitioner. Under the said circumstances, I am of the view that Ext.P2 order cannot be legally sustained. Resultantly, I

quash Ext.P2 order and Ext.P3 notice of demand and direct the 3rd respondent to reconsider the matter and pass fresh orders of assessment in relation to the building of the petitioner after issuing a notice to him and affording him an opportunity of being heard. The 3rd respondent shall pass orders as directed, after hearing the petitioner, within a period of two months from the date of receipt of a copy of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das