IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

WP(C).No. 15070 of 2015 (G)

PETITIONER:

T.Y. POULOSE, S/O.YOHANNAN,
THUDUMAYIL HOUSE, PINDIMANA,
KOTHAMANGALAM.

BY ADV. SRI.P.P.JACOB

RESPONDENT:

THE TAHSILDAR,
TALUK OFFICE, KOTHAMANGALAM-686 691.

BY GOVERNMENT PLEADER SMT. LILLY.KT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 15070 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- TRUE PHOTOCOPY OF THE ORDER ISSUED BY THE RESPONDENT DATED 22-7-2013.

EXHIBIT P2- TRUE PHOTOCOPY OF THE RECEIPT ISSUED BY THE PINDIMANA VILLAGE DATED 3-1-2014.

EXHIBIT P3- TRUE PHOTOCOPY OF THE ORDER ISSUED BY THE RESPONDENT DATED 19-12-2014.

EXHIBIT P4- TRUE PHOTOCOPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE RESPONDENT DATED 31-1-2015.

EXHIBIT P5- TRUE PHOTOCOPY OF THE JUDGMENT IN WPC NO.6499/15 DATED 2-3-2015.

EXHIBIT P6- TRUE PHOTOCOPY OF THE ORDER PASSED BY THE RESPONDENT DATED 18-4-2015.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 15070 of 2015
===
Dated this the 23rd day of November, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P6 order passed by the respondent, assessing the building of the petitioner to the building tax in accordance with the Kerala Building Tax Act, 1975. The sole contention urged on behalf of the petitioner at the time of hearing of the writ petition is that, as per the Panchayat Building Rules, 50% of the open area of the building has to be excluded for the purposes of calculation of plinth area of the building and therefore, the same exclusion must operate in relation to the petitioner's building for the purposes of the Kerala Building Tax Act, 19785. The petitioner also relies on the decision of this court in Nehrad Naina v. District Collector **[2011 (2) KLT 810]** to substantiate his contention on merits.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that for the purposes of assessment under the Kerala Building Tax Act, the levy of tax is on the plinth area of a building as determined in accordance with the specific provisions of that Act. Section 6 of the Kerala Building Tax Act clearly and unambiguously states that the plinth area of a building for the purposes of tax is the plinth area of the building as specified in the plan approved by the local authority or such other authorities as may be specified by the Government in this behalf and verified by the assessing authority in such manner as may be prescribed. There are other clauses, which provide for exclusion of certain areas from the plinth area for the purposes of assessment. The reliance by the petitioner on the provisions of the Building Rules, cannot be of any assistance in the light of the express provisions of the Kerala Building Tax Act, 1975, which alone governs the assessments under the Kerala Building Tax Act. Under the circumstances, I see no reason to interfere with Ext.P6 order in these proceedings under Article 226 of the Constitution of India. The writ petition therefore fails and is accordingly, dismissed.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

das /23.11.15