IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 19640 of 2009 (Y)

PETITIONER(S):
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1. SREEKANTH D., S/O.DEVAN KANNAN,
   R/AT THERUVIL, NILESHWAR VILLAGE,
   HOSDURG TALUK, KASARAGOD DISTRICT.

2. SREEJITH. D., S/O.DEVAN KANNAN,
   R/AT THERUVIL, NILESHWAR VILLAGE,
   HOSDURG TALUK, KASARAGOD DISTRICT.

3. A.RAJESH KUMAR, S/O.K.BHARATHI AMMA,
   R/AT KOTTAPPURAM, NILESHWAR VILLAGE,
   HOSDURG TALUK, KASARAGOD DISTRICT.

4. A.SANTHOSH KUMAR, S/O.K.BHARATHI AMMA,
   R/AT KOTTAPPURAM, NILESHWAR VILLAGE,
   HOSDURG TALUK, KASARAGOD DISTRICT.

   BY ADV. SRI.KODOTH SREEDHARAN.

RESPONDENT(S):
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1. TAHSILDAR, HOSDURG.

2. REVENUE DIVISIONAL OFFICER,
   KASARAGOD AT KANHANGAD.

3. DISTRICT COLLECTOR, KASARAGOD.

4. STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY,
   MINISTRY OF REVENUE, GOVT. SECRETARIAT,
   THIRUVANANTHAPURAM.

   BY GOVT. PLEADER SRI.R. RANJITH.

   THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 19640 of 2009 (Y)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE TAX ASSESSMENT EXTRACT IN RESPECT OF THE BUILDING MAINTAIN BY THE NILESHWAR PANCHAYATH IN THE NAME OF ORIGINAL OWNERS.
EXT.P2	COPY OF THE HOUSE TAX ASSESSMENT EXTRACT IN RESPECT OF THE BUILDING MAINTAIN BY THE NILESHWAR PANCHAYATH IN THE NAME OF THE PETITIONERS.
EXT.P3	COPY OF THE ASSESSMENT ORDER NO.C2 BT 229/06 DATED 01/03/2006 OF THE 1ST RESPONDENT TO THE PETITIONERS.
EXT.P3A	COPY OF THE REVISED ORDER NO.C2 BT 229/06 DATED 20/03/2006 OF THE 1ST RESPONDENT TO THE PETITIONERS.
EXT.P3B	COPY OF THE REVISED ORDER NO.C2 BT 229/06 DATED 20/03/2006 OF THE 1ST RESPONDENT TO THE PETITIONERS.
EXT.P4	COPY OF THE ORDER NO.D.DIS.1516/06/D DATED 11/11/2006 OF THE 2ND RESPONDENT TO THE PETITIONERS.
EXT.P5	COPY OF THE ORDER NO.B5-49101/06/K.DIS. DATED 27/05/2009 OF THE 3RD RESPONDENT TO THE PETITIONERS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No.19640/2009

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Dated this the 16th Day of June, 2015

J U D G M E N T

The petitioners in this writ petition impugn various orders passed by the Authorities under the Kerala Building Tax Act, 1975 for assessing building tax. The only question before this Court is whether the claim of the petitioners that the construction of the building was completed much before the appointed day can be accepted or not. The appointed day being 10/02/1992, it is reckoned as the taxable event for assessment based on plinth area. The petitioners rely on the extract of the building tax assessment register maintained by the local authority to contend that the building was completed much before the appointed day. There cannot be any dispute regarding liability of building tax, as the building was constructed after 01/04/1973. The only question is whether plinth area should be reckoned for levying building tax. According to the petitioner since taxable event, i.e., completion of construction of the building, was before 10/02/1992, they are not liable to pay tax based on the plinth area. Necessarily, this issue had to be adverted to by the Tahsildar. In view of the facts and circumstances, the matter shall be reconsidered by the Tahsildar. However, this need be reconsidered only if the petitioners produce sufficient evidence to show that the construction of the entire building was completed before 10/02/1992. If the petitioner is able to produce documents as above, necessarily, revised orders shall be passed by the Tahsildar. Needful shall be done within a period of three months.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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