

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 20691 of 2015 (J)

PETITIONER(S):

- 1. TREESA GEORGE, W/O.N.P. GEORGE,
NAMBIYATTUKUDI HOUSE, RAYONPURAM,
PERUMBAVOOR, ERNAKULAM DISTRICT.**
- 2. LIJI ANTONY, W/O.N.P. ANTONY,
NAMBIYATTUKUDI HOUSE, RAYONPURAM,
PERUMBAVOOR, ERNAKULAM DISTRICT.**

BY ADV. SRI.C.M.SURESH BABU.

RESPONDENT(S):

- 1. THE SECRETARY,
KOOVAPPADY GRAMA PANCHAYAT,
KOOVAPPADY P.O, PIN-683 544,
ERNAKULAM DISTRICT.**
- 2. KOOVAPPADY GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
KOOVAPPADY P.O., PIN - 683 544,
ERNAKULAM DISTRICT.**

BY ADV. SRI.R.RANJITH, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 - TRUE COPY OF THE CERTIFICATE OF ACKNOWLEDGEMENT DATED 16.04.2015 ISSUED BY THE DISTRICT INDUSTRIES CENTRE, ERNAKULAM.
- P2 - TRUE COPY OF THE RECEIPT DATED 14.11.2014 ISSUED BY THE 1ST RESPONDENT.
- P3 - TRUE COPY OF THE DEMAND NOTICE DATED 23.03.2015 FROM THE 1ST RESPONDENT TO THE PETITIONERS.
- P4 - TRUE COPY OF THE PROVISIONAL ORDER WITH NOTICE DATED 23.03.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.
- P5 - TRUE COPY OF THE REPRESENTATION DATED 04.04.2015 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.
- P6 - TRUE COPY OF THE NOTICE DATED 15.06.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.
- P7 - TRUE COPY OF THE APPLICATION UNDER THE RIGHT TO INFORMATION ACT DATED 24.06.2015 SUBMITTED TO THE INFORMATION OFFICER OF THE RESPONDENT PANCHAYAT.
- P8 - TRUE COPY OF THE JUDGMENT IN WP(C).NO. 18226/2015 DATED 18.06.2015 OF THIS HONOURABLE COURT.
- P9 - TRUE COPY OF THE DRAFT NOTIFICATION PUBLISHED IN MATHRUBHUMI DAILY DATED 19.05.2015.
- P10 - TRUE COPY OF THE OBJECTION DATED 06.05.2015 TO THE DRAFT NOTIFICATION SUBMITTED BY THE 1ST PETITIONER'S HUSBAND SRI.N.P.GEORGE.
- P11 - TRUE COPY OF THE G.O.NO.19/2011/LSGD DATED 14.01.2011.

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

PA. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.20691 of 2015

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Dated this the 9th day of July, 2015

JUDGMENT

Aggrieved by the coercive action initiated by the respondent panchayat against the petitioners, they have approached this Court.

2. The petitioners are running a small scale industrial unit in building No.VIII/969-S of respondent panchayat since 1998 as per Ext.P1. They have been remitting the property tax in respect of the building without any default till 2014-15 1st and 2nd half by Ext.P2. In march, 2015, the respondent panchayat has issued Ext.P3 notice requiring the petitioners to remit an amount of ₹4,69,468/- towards property tax for the building numbered as UA-XIX/25 (2014-15) for the period 2011-12 to 2014-15. The petitioner alleges it was on the allegation that the said building is an unlawful construction under Section 235AA of the Kerala Panchayat Raj Act, 1994. Though they submitted Ext.P5 representation against the said notice before the

respondent panchayat, the panchayat did not care to consider it.

3. The respondent panchayat again issued Ext.P6 notice under Rule 14 of the Kerala Panchayat Raj (Taxation, Levy, and Appeal) Rules 1996, informing the initiation of attachment and prosecution steps, if an amount of ₹5,10,683/- towards property tax for unauthorised construction was not remitted. The petitioners point out that even if the panchayat is of the opinion that the building is unauthorised, the Secretary can regularise the same by realising compound fee under Rule 134 of the Rules. It is with this background, the petitioners have approached this Court.

4. I have heard the learned counsel for the petitioners and the learned standing counsel for the respondent panchayat.

As the learned counsel for the petitioner has confined his argument to the limited prayer seeking a direction to consider Ext.P5 representation against assessment by the respondent panchayat, the writ petition is disposed of directing the respondent panchayat to

consider and pass appropriate orders on Ext.P5 after affording the petitioners an opportunity of being heard within a period of one week from the date of receipt of a copy of this judgment. Till that exercise is completed, further coercive action against the petitioners shall be kept in abeyance.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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